



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

खण्ड 22]

शिमला, शनिवार, 14 दिसम्बर, 1974/23 अग्रहायण, 1896

संख्या 50

विषय-सूची

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14 दिसम्बर, 1974/23 अग्रहायण, 1896 को समाप्त होने वाले सप्ताह में निम्नलिखित विज्ञप्तियां 'भासाधारण राजपत्र, हिमाचल प्रदेश' में प्रकाशित हुईं—

No. 3-15/74-Elec., dated the 9th December, 1974.
No. 4-16/72-Co-op. (Sectt.), dated the 6th December, 1974.
No. 10-16/74-Rev. A, dated the 12th November, 1974.
No. 1-1/72-Hou., dated the 29th August, 1974.

Election Department
Co-operative Department
Revenue Department
Housing Department

By-election to the Himachal Pradesh Legislative Assembly from 68-Mandi Constituency.
Corrigendum to Notification No. 4-16/72 Co-op. (Sectt.), dated the 21st September, 1974.
Draft rules entitled as the Himachal Pradesh Land Holdings Tax Rules, 1974.
The Himachal Pradesh Housing Board Rules, 1973.

भाग 1—वैधानिक नियमों को छोड़ कर हिमाचल प्रदेश के राज्यपाल और हिमाचल प्रदेश हाई कोर्ट द्वारा अधिसूचनाएं इत्यादि

हिमाचल प्रदेश हाई कोर्ट

CORRIGENDUM

Simla, the 27th November, 1974

No. HHC/Adm. 16-7/74-13378.—Please read “Sudhinder Kumar Advocate” for “Sudhir Kumar Advocate” at serial No. 1 in this Court notification of even number dated August 28, 1974 published in Rajpatra, dated September 7, 1974.

By order,
KEDARISHWAR,
Registrar.

हिमाचल प्रदेश सरकार

**PERSONNEL (A-I) DEPARTMENT
NOTIFICATIONS**

Simla-2, the 26th November, 1974

No. 10-2/72-DP-Appt. I.—In exercise of the powers conferred by sub-section (1) of section 20 of the Code of Criminal Procedure, 1973, the Governor, Himachal Pradesh is pleased to appoint the following Tehsildars, to be the Executive Magistrates, with all the powers of an Executive Magistrate, under the said Code, to be exercised within the local limits of their respective jurisdiction with immediate effect :—

1. Shri H. D. Atri, Tehsildar, Kangra.
2. Shri Mango Ram Naryal, Tehsildar, Dehra.
3. Shri Amar Singh, Tehsildar, Palampur.
4. Shri A. L. Jain, Tehsildar, Nurpur.

Simla-2, the 26th November, 1974

No. 7-115/74-DP(APPTT).—The Governor, Himachal Pradesh is pleased to place the services of Shri Satpal Singh, H. P. A. S. (Probationer) at the disposal of the Himachal Road Transport Corporation, on deputation, for appointment as Regional Transport Manager with effect from October 2, 1974.

AJAY PRASAD,
Joint Secretary.

(To be substituted to Government Notification No. 1-17/68-Appt. (I), dated the 8th November, 1974.)

Simla-2, the 28th November, 1974

No. 1-17/68-Appt. I.—The Governor, Himachal Pradesh is pleased to extend the *ad hoc* appointment of Dr. B.S. Jogi, a permanent Deputy Director of Agriculture, Himachal Pradesh as Director of Agriculture, Himachal Pradesh in the scale of Rs. 1800-100-2000-125/2-2250, for a further period of three months with effect from 1st September, 1974 to 30th November, 1974 or till the post is filled on a regular basis, whichever is earlier.

2. This is in continuation of Government Notification of even number, dated the 20th June, 1974.

U.N. SHARMA,
Chief Secretary.

Simla-2, the 30th November, 1974

No. 3-5/73-DP-Appt.—In supersession of this Department's Notification of even number, dated the 12th

July, 1974, the Governor, Himachal Pradesh is pleased to accord *ex-post-facto* sanction to the grant of 20 days earned leave to Miss Suneeta Dhingra, I.A.S., Sub-Divisional Officer (Civil) Nurpur, with effect from the 1st to 20th July, 1974, with permission to avail Sunday falling on the 21st July, 1974, subject to verification of title to leave by the A. G. H. P.

2. Certified that Miss Suneeta Dhingra would have continued to officiate but for her proceeding on the above leave.

Simla-2, the 30th November, 1974

No. 3-5/61-DP-(Appt.) II.—The Governor, Himachal Pradesh is pleased to order that Shri Kedarishwar, a member of the Himachal Pradesh Higher Judicial Service presently posted as Registrar, Himachal Pradesh High Court, who attained the age of superannuation on the 3rd November, 1974, shall retire on the afternoon of 30th November, 1974.

AJAY PRASAD,
Joint Secretary.

AGRICULTURE DEPARTMENT

NOTIFICATION

Simla-171002, the 28th November, 1974

No. 16-15/73-Agr. (Sectt).—The Governor, Himachal Pradesh with the prior concurrence of the H. P. Public Service Commission, is pleased to order the continuance of the *ad hoc* appointment of Shri Birendra Singh, as Subject Matter Specialist (PP) Indo Agricultural Development Project, Kangra District, Palampur, in the Class II scale of Rs. 350—900 upto 31-12-74 or till the post is filled on a regular basis, whichever is earlier.

NIHAL SINGH,
Under Secretary.

EDUCATION DEPARTMENT

(TECHNICAL EDUCATION)

ADDENDA

Simla-171002, the 27th November, 1974

No. 15-13/71-Edu. B (TE).—Add the words “and with the approval of the Himachal Pradesh Public Service Commission” after the word “Committee” occurring in this Department's notification of even number, dated the 29th October, 1974, regarding the officiating appointment of Shri S. S. Suri, Demonstrator in Electrical Engg. as Lecturer in Electrical Engineering.

Simla-171002, the 27th November, 1974

No. 15-13/71-Edu. B (TE).—Add the words “and with the approval of the Himachal Pradesh Public Service Commission” after the word “Committee” occurring in this Department's notification of even number, dated the 29th October, 1974, regarding the appointment of Shri D. N. Paul, Senior Drawing Instructor (Mech.) as Lecturer in Mechanical Engineering.

C. M. CHATURVEDI,
Secretary.

GENERAL ADMINISTRATION DEPARTMENT

“SECTION-D”

NOTIFICATION

Simla-2, the 30th November/2nd December, 1974

No. 6-4/73-GAD (Pub).—On the recommendations of the Departmental Promotion Committee, the Governor, Himachal Pradesh is pleased to confirm the following officers under the Department of Public Relations, Himachal Pradesh, in the posts of District Public Relations Officer, Class-II, Gazetted, in the pay scale of Rs. 350—900, with effect from the dates shown against each:—

- (i) Shri Parma Nand with effect from 12th November, 1974.
- (ii) Shri B. C. Bhaik with effect from 13th November, 1974.

B. D. SHAUNAK,
Under Secretary.

HORTICULTURE DEPARTMENT

NOTIFICATION

Simla-2, the 6th November, 1974

No. 38-26/70-Hort: Sectt.—In partial modification of this Govt. notification of even number dated the 13/14th February, 1974, the Governor, Himachal Pradesh, is pleased to nominate the Horticulture Adviser to Govt. of Himachal Pradesh-cum-Managing Director, H. P. Horticultural Produce Marketing and Processing Corporation Pvt. Ltd., and Shri Amrit Singh Rathore, M. L. A. as members of the Central Project Committee; in place of officer on Special Duty, (World Bank Project) H. P. and Shri Beli Ram Bhajaik at serial Nos. 8 and 12 respectively of the aforesaid notification.

S. M. VERMA,
Under Secretary.

INDUSTRIES DEPARTMENT

NOTIFICATIONS

Simla-2, the 27th November, 1974

No. 3-2/69-SI (FC)-IV.—In pursuance of sub-section (1) of section 7 of the State Financial Corporations Act, 1951 (LXIII of 1951), the Governor, Himachal Pradesh, is pleased to accord sanction for standing state Government guarantee to the repayment of principal and the payment of interest thereon in respect of bonds of Rupees Twenty-five lakhs, with an option to retain 10% in excess of the said amount, to be issued by the Himachal Pradesh Financial Corporation during the current financial year (1974-75). This guarantee is subject to the payment of guarantee fee at the prescribed rate of half-a-per cent (½ %) by the Himachal Pradesh Financial Corporation to the State Government on the actual amount availed of against the bonds within one month from the date of issue of bonds.

Simla-2, the 28th November, 1974

No. 10-131/71-SI(MM).—In exercise of the powers conferred by sub-section 2 of section 26 of the Mines and Minerals (Regulation & Development) Act, 1957 (67 of 1957) as amended by the Mines and Minerals (Regulation and Development) Amendment Act, 1972 (Act 56 of 1972) read with sub-section (4) of section 21 of the aforesaid Act, and all other powers enabling him in this behalf, the Governor of Himachal Pradesh

is pleased to authorise all the Executive Magistrates within their local jurisdiction to seize any minerals raised by any person without any lawful authority or any tool, equipment, vehicle or any other thing brought on the land for the purpose.

By order,
P. K. MATTOO,
Secretary.

LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATIONS

Simla-171002, the 28th/30th November, 1974

No. 2-106/69-SI.—In partial modification of this Government Notification of even number dated the 18th April, 1972, and in exercise of the powers conferred by sub-section (1) of section 20 of the Workmen's Compensation Act, 1923 (VIII of 1923), the Governor, Himachal Pradesh, is pleased to appoint Land Acquisition Officer, Beas Sutlej-Link Project, Mandi, as Commissioner for Workmen's Compensation for the purpose of the aforesaid Act in respect of the cases of workmen arising within the Beas-Sutlej Link Project, Mandi.

Simla-171002, the 28th/30th November, 1974

No. 2-361/69-SI.—The Governor of Himachal Pradesh is pleased to appoint the following on the Evaluation and Implementation Committee which was constituted vide Notification of even number dated the 25th February, 1972, as amended vide *corrigendum* of even number dated the 7th April, 1972, and tenure extended vide Notification No. 10-40/73-SI, dated the 26th March, 1974:—

- (1) The President, Himachal Road Transport Employees Federation, Simla, in place of Shri D. D. Mathew, Secretary, State Transport Workers Union, Mandi.
- (2) Shri Gauri Nandan Sharma, General Secretary, I. N. T. U. C. in place of Shri H. L. Sethi, General Secretary, Municipal Employees Union, Simla.

Simla-171002, the 30th November, 1974

No. 10-61/71-SI.—In exercise of the powers conferred by section 34 of the Himachal Pradesh Shop and Commercial Establishments Act, 1969 the Governor of Himachal Pradesh, on the recommendation of Deputy Commissioner, Simla, is pleased to make the following amendment in Schedule II of Himachal Pradesh Shops and Commercial Establishments Rules, 1972, as modified vide this Department's Notification of even number dated the 14th November, 1974:—

At serial No. 1 against “within limits of Simla Municipal Corporation”, the following shall be inserted in place of “Tuesday”:

- (1) All Shops and Commercial Establishments, excepting fair price shops Sunday.
- (2) Fair Price Shops run/approved/licensed by the Cooperative or Civil Supplies Department. Tuesday.

By order,
P. K. MATTOO,
Secretary.

LABOUR DEPARTMENT
NOTIFICATION

Simla-171002, the 2nd December, 1974

No. 10-101/71-SI.—In exercise of the powers conferred by section 27 of the Himachal Pradesh Shops and Commercial Establishments Act, 1969 (Act No. 10 of 1970), the Governor of Himachal Pradesh is pleased to exempt the excise establishments licenced by the Himachal Pradesh Excise and Taxation Department in the State of Himachal Pradesh from the operation of section 9 and section 10(1) of the Himachal Pradesh Shops and Commercial Establishments Act, 1969 for a period of one year with effect from the 1st April, 1974, subject to the condition that the persons required to work in excess of their normal daily working hours shall be paid remuneration at double the rate of normal wages calculated by the hour.

By order,
P. K. MATTOO,
Secretary.

PUBLIC WORKS DEPARTMENT

NOTIFICATIONS

Simla-2, the 31st October, 1974

No. 9-17/73-PW(B).—Whereas it appears to the Governor, Himachal Pradesh that land is likely to be required to be taken by the Himachal Pradesh Government at the public expense for a public purpose, namely for flood protection, it is hereby notified that land in the locality described below is likely to be acquired for the above purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894 to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor, Himachal Pradesh is pleased to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested, who has any objection to the acquisition of the said land in the locality may, within thirty days of the publication of this notification, file an objection in writing before the Collector of Land Acquisition, Mandi and Kulu, H. P. P. W. D. Mandi.

SPECIFICATION

District: MANDI

Tehsil: SADAR

Village	Khasra No.	Area			Bisw.
		Big.	Bis.	5	
1	2	3	4	5	6
SIOHAL	475/1	0	3	0	
	476/1	0	9	12	
	243/1	0	13	8	
	239/1	0	3	12	
	245/1	0	5	14	
	268/1	0	3	12	
	268/2	0	1	5	
	172/1	0	5	14	

Total .. Kita 30

17 6 10

Simla-2, the 20th November, 1974

No. 2-32/70-PW(B).—Whereas it appears to the Governor, Himachal Pradesh that the land is required to be taken by the Government at public expense for a public purpose, namely for construction of Bhati-Shaline-Kothi Manali c/o National High Way No. 21 km. 303, it is hereby declared that the land described in the specification below is required for the above purpose.

2. The declaration is made under the provisions of section 6 of the Land Acquisition Act, 1894, to all whom it may concern and under the provisions of section 7 of the said Act, the Collector, Land Acquisition, Himachal Pradesh Public Works Department is hereby directed to take order for the acquisition of the said land.

3. A plan of the land may be inspected in the office of the Collector, Land Acquisition, Himachal Pradesh Public Works Department.

SPECIFICATION

District: KULU

Tehsil: KULU

Village	Khasra No.	Area		Bis.
		Big.	Bis.	
1	2	3	4	5
PHATI	1186/1			14
SHALINE.	1187/1			10
KOTHI	1188/1			16
MANALI				
Total ..	3		2	0

By order,
GANGESH MISRA,
Secretary.

Simla-2, the 21st November, 1974

No. 1-98/70-PW-A.—The following posting/transfers of the Superintending Engineers are hereby ordered with immediate effect in the public interest:—

Sl. No.	Name	From	To
1.	Shri G. N. Ramaswamiah.	5th Circle, Dharamsala (Distt. Kangra).	1st Circle, Mandi, vice Shri S. P. Kapoor.
2.	Shri S. P. Kapoor.	1st Circle, Mandi.	Superintending Engineer, World Bank Project-Designs, Headquarter, Simla vice Shri S.M. Bhagchandani.
3.	Shri S. M. Bhagchandani.	World Bank Project-Design, Simla.	3rd Circle, Solan vice Shri Mohan Lal Bansal, whose services have been placed at the disposal of Himachal Pradesh Horticulture Produce Marketing and Processing Corporation, Simla.
4.	Shri R. C. Kalia XEN. on promotion as Superintending Engineer.	Dharamsala Division.	5th Circle, Dharamsala vice Shri G. N. Ramaswamiah.

2. All the above Superintending Engineers should move simultaneously after handing-over charge to the available Executive Engineer. Shri Kalia should relinquish the charge and join his new place of posting.

3. All the above named officers are entitled to usual joining time and T. A. as admissible under the rules.

Simla-2, the 28th November, 1974

No. 1-29/69-PWD.—The Governor, Himachal Pradesh is pleased to promote Shri S. P. Punhani Executive Engineer, Himachal Pradesh Public Works Department to the post of Superintending Engineer in the scale of Rs. 1600-20000 against the vacancy caused by Shri K. D. Panwar, Superintending Engineer proceeding on earned leave for 47 days w. e. f. 2nd December, 1974.

The Governor, Himachal Pradesh is further pleased to post Shri S. P. Punhani as Superintending Engineer Design (W. S.) Simla.

GANGESH MISRA,
Secretary.

REVENUE DEPARTMENT
NOTIFICATIONS

Simla-171002, the 22nd November, 1974

No. 3-4/73-Rev. I.—In supersession of this Department's notification of even number, dated the 1st November, 1974, the Financial Commissioner, Himachal

Pradesh is pleased to order the following transfers and postings of the Consolidation Officers in Himachal Pradesh with immediate effect in the public interest:—

Sl. No.	Name of Officer	From	To
1.	Sh. Kripal Singh	A. C. O. (on promotion as C. O.).	Una against vacant post.
2.	Sh. Ram Rattan	A. C. O. in the office of the D. C. H. (on promotion as C. O.).	Hamirpur against vacant post.
3.	Sh. Rama Nand Jishtu.	Head Clerk, Office of S. O. (C. H.) (on promotion as C. O.).	Bilaspur against vacant post.

2. The Financial Commissioner, Himachal Pradesh is further pleased to order that the above officers shall be entitled to T. A. and joining time as admissible under the rules. All the officers shall move simultaneously.

By order,
SOHAN SINGH,
Deputy Secretary.

Simla-2, the 26th November, 1974

No. 2-37/64-Rev. I.—In exercise of the powers vested in him under section 28 of the Himachal Pradesh Land Revenue Act, 1953 (6 of 1954) and all other powers enabling him in this behalf, the Governor, Himachal Pradesh is pleased to confer the powers of Assistant Collector Second Grade upon the following class 'B' Tehsildar candidates to be exercised by them within the local limits of their respective jurisdictions as specified against each for six months from the date they reported for the training:—

Name of Officer	Area of jurisdiction
1. Shri P. R. Sharma Class 'B' Tehsildar Candidate.	Simla district
2. Shri Moti Ram Class 'B' Tehsildar Candidate.	Mandi district
3. Shri Ram Karan Class 'B' Tehsildar Candidate.	Kinnaur district

Simla-2, the 26th November, 1974

No. 2-37/64-Rev. I.—In exercise of the powers vested in him under section 27 of the Punjab Land Revenue Act, 1887 (Act No. 17 of 1887), as in force in the areas added to Himachal Pradesh under section 6 of the Punjab Reorganisation Act, 1966, and all other powers enabling him in this behalf, the Governor, Himachal Pradesh, is pleased to confer the powers of Assistant Collector Second Grade on Shri Paras Ram Sharma Class 'B' Tehsildar Candidate to be exercised within jurisdiction of Simla district for six months from the date he reported for the training.

By order,
L. HMINGLIANA TOCHHAWNG.
Secretary.

**भाग 2—वैधानिक नियमों को छोड़ कर विभिन्न विभागों के अध्यक्षों और ज़िला मैजिस्ट्रेटों द्वारा
अधिसूचनायें इत्यादि**

FOREST DEPARTMENT

(MANDI FOREST DIVISION)

Mandi, the 20th November, 1974

No. 5101-5200—In exercise of the powers conferred by sections 41 and 42 of Indian Forest Act, 1927, as applicable to Himachal Pradesh and the Rules framed thereunder vide notification No. Ft. 45-58/56 dated 26-2-57, rule 6, I hereby declare Ghatasni on Barot-Ghatusni road, as a 'barrier'. All forest produce passing through this barrier will be inspected by the Incharge Barrier. No export shall be allowed through the Check Post after sunset and before sun-rise.

All the rules issued vide notification No. Ft. 45-58/56, dated 26-2-57 shall be applicable for this Check Post.

P. N. TIKU, I. F. S.

*Divisional Forest Officer,
Mandi Forest Division.*

SPECIFICATION

District: MANDI

Tehsil: SARKAGHAT

Village 1	Khasra No. 2	Area		
		Big. 3	Bis. 4	Bisw. 5
GIYUN	1858/1157	0	1	2
	1855/1158	0	4	8
	1851/1158	0	5	7
	1854/1158	0	2	4
	1852/1158	0	2	0
	1853/1158	0	1	0
	1856/1158	0	1	10
	1859/1157	0	1	16
959	0	2	0	0
967	0	2	1	1
1156	0	3	13	
1190	0	0	12	
1857/1158	0	2	14	
1169 min.	0	19	7	
1165	0	0	14	
733	1	0	4	
1191	0	12	5	
1169 min.	0	19	8	
969	0	2	6	
1028	0	2	16	
1024	0	1	18	
1043	0	5	7	
1048	0	17	2	
1734/1135	0	0	18	
1143	0	3	4	
1217	0	8	5	
1239	0	6	18	
692	0	2	1	
714	0	6	18	
726	0	1	6	
1049	0	6	4	
1030	0	9	11	
1725/1135	0	0	18	
1138	0	2	0	
1216	0	3	8	
1275	0	3	9	
1240	0	14	1	
1144	0	10	6	
1146	0	2	6	
1178	0	6	0	
1211	0	3	14	
1212	0	6	16	
1772	0	0	8	
721	0	12	0	
717	0	6	9	
718	0	0	12	
719	0	3	7	
720	0	12	7	
726	0	2	8	
728	0	4	6	
1131	0	0	16	
1132	0	2	4	
729	0	12	16	
730	1	3	11	
722	0	3	9	
1139	0	2	10	
1140	0	0	10	
1141	0	2	16	
1180	0	2	11	

PUBLIC WORKS DEPARTMENT

DE-NOTIFICATIONS

Mandi, the 25th November, 1974

No. SEI-R-25-30/74-26627-30—The notification under section 4 in respect of village Giyum for the work 'Construction of Mandi-Tungal-Thona-Dharampur road' published vide this office letter No. SEI-R-25-47/69-I-10725-29 (21) dated 30-4-69 for the below noted Khasra Nos. is hereby cancelled.

2	3	4	5	1	2	3	4	5
1280	0	3	3		1691	0	5	10
1727/723	0	10	19		1718	3	10	18
1142	1	2	5		1719	0	2	9
1244	0	10	14		1908	0	10	15
1728/723	0	11	6		1410	0	8	10
1181	0	5	18		1411	6	18	14
1284	1	17	3		1003	2	3	13
711	0	2	1		1048	1	7	3
697	0	2	14		1015	0	16	1
958	0	2	14		1014	0	4	3
1055	0	7	19		119	0	10	13
1031	0	4	10		120	0	1	18
1213	1	7	17		122	0	4	18
1285	0	0	12		132	0	4	8
1286	1	7	0		128	6	6	15
1287	1	4	5		129	0	1	2
1288	2	18	14		121	0	8	16
1289	0	0	15		784	0	2	14
1017	0	1	8		785	0	2	0
755	0	15	4		787	0	8	18
1221	0	1	13		859	0	15	16
1214	0	4	11		1052	1	17	9
715	0	1	10		854	0	7	4
1812/1032	0	3	0		861	0	11	15
1238	0	3	1		872	1	3	18
698	0	3	1		873	1	3	18
712	0	1	13		862	0	5	15
1197	0	0	15		863	0	1	1
693	0	5	8		113	0	8	8
694	0	1	0		1969	2	5	19
688	0	2	2		841	2	5	18
689	0	2	12		2055	6	9	15
1461	0	0	11		2056	4	16	15
1463	0	1	13		1458	1	7	19
1586	0	4	16		1545	0	3	14
1579	0	1	14		1684	0	10	6
1664	0	1	8		1720	1	7	3
1726	0	1	6		1005	0	6	1
1552	0	3	6		1049	1	2	8
1454	0	3	0		1539	0	4	9
1655	0	3	7		1553	0	1	1
1896	0	8	18		1531	0	5	10
1727	0	1	1		1547	0	4	11
1518	0	3	11		1549	0	13	19
1542	0	6	15		1525	0	4	4
1584	0	2	19		1533	0	2	4
1580	0	3	1		1907	0	19	1
1660	0	2	5		1912	1	15	8
1661	0	3	4		1581	1	0	6
1697	0	8	15		1550 min.	1	5	0
1682	0	4	12		1950 min.	1	2	0
1695	0	9	11		1950 min.	0	3	11
1671	0	3	5		Total	177	134	5
1675	0	1	17		Kita			
1721	0	3	7					
1051	0	6	0					
1534	0	7	9					
1526	0	9	6					
1556	0	1	10					
1665	0	3	11					
1896	0	5	15					
1961	0	10	2					
1050	0	11	10					
1455	0	3	0					
1456	0	5	11					
1457	0	13	0					
1514	0	1	18					
1536	0	2	4					
1582	2	0	3					

S. P. KAPOOR
Superintending Engineer,
1st Circle, H. P. P. W. D., Mandi.

Mandi, the 25th November, 1974

No. SEI-R-25-30/74-26631-34.—The notification under section 4 in respect of Village Longehar for the work 'construction of Mandi-Tungal-Thona-Dharampur road' published vide this office letter No. SEI-R-25-47/69-10795-99 (37), dated 30-4-69 for the below noted Khasra Nos. is hereby cancelled.

SPECIFICATION

District: MANDI Tehsil: SARKAGHAT

Village	Khasra No.	Area		
1	2	Big.	Bis.	Bisw.
LONGEHAR	214	0	14	8
	215	0	3	8
	216	0	4	12
	213	2	4	13
	217	3	14	14
	206	0	2	10
	207	0	5	9
	212	0	4	15
	188	1	1	0
	1303/189	3	5	7
	1281	0	5	4
	1309	12	7	15
	1310	5	19	5
	1311	6	9	2
	211	0	6	5
	1302/189	0	18	17
	1304/189	0	4	11
	1329	2	1	4
	293	0	2	4
	208	1	0	13
Total	20	41	15	16

S. P. KAPOOR,
Superintending Engineer,
1st Circle, H.P. P.W.D. Mandi.

Hamirpur, the 28th November, 1974

No. SE-VIII/LAK/PH-WS-VIII/WIII/74/19677-81.—

Whereas it appears to the Governor, Himachal Pradesh

भाग 3—अधिनियम, विधेयक और विधेयकों पर प्रबंद समिति के प्रतिवेदन, वैधानिक नियम तथा हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश हाई कोर्ट, फाइनेन्शल कमिशनर तथा कमिशनर आफ इन्कम-टैक्स द्वारा अधिसूचित आदेश इत्यादि

ANIMAL HUSBANDRY DEPARTMENT

NOTIFICATIONS

Simla-171002, the 22nd November, 1974

No. 1-58/73-AH (Sectt.).—In exercise of the powers conferred by proviso to Article 309 of the Constitution of India and all other powers enabling him in this behalf, the Governor, Himachal Pradesh, in consultation with the Himachal Pradesh Public Service Commission, is pleased to make the Recruitment and Promotion Rules as in the Annexure-I (enclosed) for the posts of General Manager, Milk Supply Scheme, Mandi and Deputy Director (Dairy) Himachal Pradesh, under the Department of Animal Husbandry, Himachal Pradesh.

2. These rules shall come into force with immediate effect.

ANNEXURE-I

Recruitment and Promotion Rules for the post of General Manager, Milk Supply Scheme, Mandi/ Dy. Director (Dairy) in the Department of Animal Husbandry.

1. Name of post General Manager, Milk Supply Scheme, Mandi/ Deputy Director (Dairy).
2. No. of posts Two.
3. Classification Class-I.
4. Scale of pay Rs. 400-30-550/40-750/50-1250.

that the land is likely to be required to be taken by Government at public expense for public purpose, namely for construction of Providing Water Supply Scheme Gagret Ambota and Signai. It is hereby notified that the Land in the locality described below is likely to be acquired for the above purpose.

This notification is made under provision of Section IV of the land Acquisition Act, 1894 to all whom it may likely to concern:

In exercise of the power conferred by the aforesaid section the Governor, Himachal Pradesh is pleased to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested who has any objection to the acquisition of any land in the locality may within 30 days of the publication of this notification file an objection in writing before the Land Acquisition Collector, Himachal Pradesh, P. W. D., Kangra.

SPECIFICATION

District: UNA

Tehsil: AMB

Village	Khasra No.	Kanals	Marias
AMBOTA	3530	0	11
Total	..	0	11

B. L. SHARMA,
Superintending Engineer,
8th Circle, H.P. P. W.D., Hamirpur.

5. Whether selection post or non-selection post.
6. Age for direct recruits.
7. Minimum educational and other qualifications required for direct recruits.

Selection.

40 years and below.

Essential—(i) B. Sc. Dairy-ing or its equivalent/ Indian Dairy Diploma/ B. V. Sc. and A. H. followed by M. Sc. (Dairy-ing) or its equivalent, from a recognised University/Institute.

(ii) 3 years experience of running Milk Supply Schemes in case of degree holders and 5 years experience in the case of diploma holders (including practical experience of running a milk plant).

OR

At least 5 year's administrative experience of working in a responsible capacity either in Dairy Development or in any Milk Supply Scheme or in Animal Husbandry (Dairy Extension).

Whether age and educational qualifications prescribed for direct recruits will apply in the case of promotees. Period of probation, if any.

Method of recruitment, whether by direct recruitment or by promotion/deputation/transfer and the percentage of vacancies to be filled by various methods. In case of recruitment by promotion/deputation/transfer, grades from which promotion/deputation/transfer to be made.

If a D.P.C. exists what is its composition.

Circumstances under which H.P. P.S.C. is to be consulted in making recruitment.

- Upper age limit for direct recruits will not be applicable to candidates already in the service of the Government.
- Upper age limit is relaxable for Scheduled Castes/Tribes candidates and other categories of persons to the extent permissible under the general or special orders of the Himachal Pradesh Government.
- Age and qualifications for direct recruits relaxable at the discretion of the commission in case of candidates otherwise well qualified.
- Provisions of Col. 10 and 11 are to be revised by the Government in consultation with the Himachal Pradesh Public Service Commission as and when the number of posts under column No. 2 are increased or decreased.
- Age limit for direct recruits will be reckoned from the last date fixed for receipt of application by the Commission.
- When the Government is of the opinion that it is necessary or expedient to do so, it may by order for reasons to be recorded in writing, and in consultation with the Himachal Pradesh Public Service Commission, relax any of the provisions of these rules with respect to any class or category of person or posts.
- Selection for appointment to this post

Age: No
Qualifications: No

2 years subject to such further extension for a period not exceeding one year as may be ordered by the competent authority in special circumstances and for reasons to be reduced to writing.
By promotion 50% and by direct recruitment 50%.

By promotion from amongst Dairy Managers/Dairy Development Officers (Class II) in the pay scale of Rs. 400-1100 with 5 year's regular service in the grade.

D.P.C. to be presided over by the Chairman of the H.P.P.S.C. or a Member thereof to be nominated by him.

As required under the law.

shall be made on the basis of *viva voce* test, if the Commission so considers necessary or expedient, by a written test, the standard/syllabus etc. of which will be determined by the Commission or a practical test.

Simla-2, the 22nd November, 1974

No. 1-58/73-AH (Sectt.).—In exercise of the powers conferred by proviso to Article 309 of the Constitution of India and all other powers enabling him in this behalf, the Governor, Himachal Pradesh in consultation with the Himachal Pradesh Public Service Commission, is pleased to amend the existing Recruitment and Promotion Rules for the post of Dairy Manager in the Department of Animal Husbandry, Himachal Pradesh, as under:—

<i>Col.</i>	<i>Existing provision</i>	<i>Revised provision as approved by the Commission</i>
<i>No.</i>	<i>provision</i>	
1.	Dairy Manager	Dairy Manager/Dairy Development Officer.
2.	Three	Five (including newly created post for the Kangra Milk Supply Scheme).
11.	Promotion amongst Dairy Inspector, Dairy Supervisors.	Promotion from amongst Dairy Inspector/Dairy Supervisors with 4 years regular service in the grade. (For purpose of promotion, a combined seniority list of Dairy Inspectors/Dairy Supervisors will be prepared on the basis of dates of regular appointment in the grade <i>inter se</i> seniority remaining unchanged).
		2. The existing Recruitment and Promotion Rules for the post of Dairy Development Officer, Himachal Pradesh as issued <i>vide</i> this Department notification No. 16-2/69-AH (Sectt.) II, dated the 5th September, 1973 are hereby repealed.

S. M. VERMA,
Under Secretary.

PUBLIC WORKS DEPARTMENT

NOTIFICATION

Simla-2, the 22nd October, 1973

No. 1-11/68-Rev.(PWD).—In exercise of the powers conferred by section 25 of the Himachal Pradesh Requisitioning and Acquisition of Immovable Property Act, 1972 (Act No. 20 of 1973), the Governor of Himachal Pradesh is pleased to make the following rules for carrying out the purposes of the aforesaid Act:—

1. *Short title.*—These rules may be called the Himachal Pradesh Requisitioning and Acquisition of Immovable Property Rules, 1973.

2. *Definition.*—In these rules, unless there is anything repugnant in the subject or context,—

(a) 'Act' means the Himachal Pradesh Requisitioning and Acquisition of Immovable Property Act, 1972;

(b) 'Form' means a form appended to these rules;

(c) "section" and "sub-section" means respectively a section or sub-section of the Act;

(d) all other words and expressions used in these rules, but not defined in these rules shall have meanings assigned to them in the Act.

3. *Procedure to be followed by competent authority for purposes of section 3(1).*—A notice under clause (a) of sub-section (1) and under clause (b) of sub-section (1) of section 3 of the Act shall be in *Form 'A'*.

4. *Order of the Requisitioning.*—The order of requisition under sub-section (2) of section 3 of the Act, and the notice under sub-section (1) of section 4 of the Act shall be issued in *Form 'B'*.

5. *Breaking open of lock on requisitioned property.*—Where the possession of a requisitioned property is not handed over in compliance with an order issued under sub-section (1) of section 4 of the Act and the premises are found locked, the competent authority or any other person authorised by it in writing in this behalf may break open the lock in the presence of two witnesses of the locality and take possession of the property:

Provided that

- (i) before any such action is taken the competent authority shall satisfy itself that the order under sub-section (1) of section 4 has been duly served on the party concerned and that the party is evading compliance with the order;
- (ii) the powers under this rule shall not be exercised at any time after sunset or before sunrise; and
- (iii) where possession is taken in pursuance of the powers conferred by this rule, an inventory of the articles found in the premises shall be made in the presence of two witnesses of the locality and such articles shall be stored in safe custody.

6. *Repairs to requisitioned premises.*—A notice under sub-section (2) of section 5 of the Act shall be in *Form 'C'*. The time for execution of repairs to be specified in the notice shall be such as the competent authority may deem reasonable having regard to the nature of repairs and other circumstances of the case.

7. *Procedure to be followed in releasing the property.*—(1) For the purpose of sub-section (2) of section 6 the competent authority may, if it considers it necessary so to do, make or cause to be made by an officer empowered in this behalf by it, an enquiry to obtain information in respect of the following matters, namely:—

- (i) the name and address of the person from whom the property was requisitioned;
- (ii) the name and address of the person in possession of the property was requisitioned;
- (iii) the name of the person who has been receiving compensation;
- (iv) whether any alternative accommodation was provided to the occupant when the property was requisitioned or whether any compensation was paid to him for vacating the property, or whether the occupants, if any, relinquished their claims for reoccupation of the property;
- (v) whether the occupant was a *bona fide* tenant of the property or was an unauthorised occupant, or has no claim in law for the restitution of the property;
- (vi) whether the owner of the property on whom

the requisitioning order was first served, has sold the property and if so, to whom;

(vii) in case the property has been sold whether the owner has sold all rights in respect of the property;

(viii) whether there is any objection to the property being de-requisitioned in favour of the owner from whom the property was requisitioned;

(ix) the state of repairs of property at the time of enquiry;

(x) whether any structure or articles belonging to Government have been erected or installed in the property and their value;

(xi) the condition of the property at the time of requisition and whether the property is in as good a condition as it was when possession thereof was taken subject to change caused by reasonable wear and tear or irresistible force;

(xii) the estimated cost of restoration; and

(xiii) any other matter that the competent authority may consider necessary for the purpose of specifying the person to whom possession of the property may be given.

(2) An order under sub-section (2) of section 6 shall be issued in *Form 'D'*.

(3) A notice under sub-section (4) of section 6 shall be in *Form 'E'*.

8. *Acquisition of requisitioned property.*—A notice under sub-section (1) of section 9 of the Act calling upon the owner or any other person interested in a requisitioned property to show cause why the property should not be acquired shall be in *Form 'F'*. A notice of actual acquisition shall be in *Form 'G'*.

9. *Arbitration.*—(1) An arbitrator appointed under clause (b) of sub-section (1) of section 10 shall complete the arbitration proceedings and give his award within four months. The State Government may, if it thinks fit whether the time for making the award has expired or not and whether the award has been made or not, enlarge from time to time, the time for making the award.

(2) An arbitrator shall take down the evidence of each witness, not ordinarily in the form of question and answer, but in that of a narrative and shall sign it.

(3) Where before an arbitrator is able to finish the arbitration proceedings and make his award a new arbitrator is appointed, the new arbitrator may deal with the evidence taken down by his predecessor as if such evidence had been taken down by him and may proceed with the arbitration proceedings from the state at which his predecessor left it.

(4) The costs of arbitration and award shall be in discretion of the arbitrator who may direct to, and by whom, and in what manner, they or any part thereof shall be paid, and in case an appeal is preferred to the High Court, such costs and the costs of the appeal shall be in the discretion of the High Court, who may direct to, and by whom and in what manner, they or any part thereof shall be paid.

10. *Appeals.*—(1) Appeals under section 12 or 13 shall be addressed to the Secretary to the Government of Himachal Pradesh in the Department of Public Works.

(2) Every appeal shall contain the grounds of appeal and shall be accompanied by a copy of the order against which the appeal is preferred.

11. *Summoning of persons and witnesses and production of documents.*—An order under section 15 of the Act

summoning and enforcing the attendance of any person and examining him on oath or, requiring the discovery and production of any documents shall be issued in Form 'H'. An order requisitioning public records from any court or office shall be issued in Form 'I', while an order issuing commissions for examination of witnesses shall be in Form 'J'.

12. Inspection of premises.—The competent authority or any officer, empowered in this behalf by such authority, by general or special order, shall not in exercise of the powers conferred by section 17 enter upon any property after sunset or before sunrise.

FORM 'A'

(See rule 3)

FORM OF NOTICE/ORDER TO BE ISSUED BY THE COMPETENT AUTHORITY UNDER SECTION 3 OF THE H.P. REQUISITIONING AND ACQUISITION OF IMMOVABLE PROPERTY ACT, 1973

WHEREAS, I....., being the competent (name and designation) authority under the Himachal Pradesh Requisitioning and Acquisition of Immovable Property Act, 1972, am of opinion that the property described in the schedule hereto annexed is needed/or likely to be needed for a public purpose,*....., being a purpose of the State and that the said property should be requisitioned;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the said Act, I, as the competent authority, hereby call upon.....@owner of the property

.....being the.....@person in possession of the property to show cause within fifteen days of the date of service of this notice upon him why the said property should not be requisitioned and I further direct that neither the owner of the said property nor any other person shall without my permission dispose of or structurally alter the said property or let it out to a tenant until the expiry of two months from the date of service of this notice upon him.

SCHEDULE

Signature.....

Designation.....
(Competent authority).

To.....

*Here mention the purpose for which the property shall be requisitioned.

@Strike off the irrelevant words.

FORM 'B'

(See rule 4)

FORM OF THE ORDER AND NOTICE TO BE ISSUED BY THE COMPETENT AUTHORITY UNDER SUB-SECTION (2) OF SECTION 3 AND SECTION 4 OF THE HIMACHAL PRADESH REQUISITIONING AND ACQUISITION OF IMMOVABLE PROPERTY ACT, 1973

Whereas by a notice issued under sub-section (1) of section 3 of the Himachal Pradesh Requisitioning and

Acquisition of Immovable Property Act, 1972 (Act No. 20 of 1973)....., was called (enter name of person (s)) called upon to show cause within the period specified therein why the property specified in the schedule hereto annexed should not be requisitioned;

And whereas the said period has expired and no cause has been shown against the said notice or/the cause shown against the notice has been considered;

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 3 and by section 4 of the said Act,....., being a competent (name) (designation) authority under the said Act having been satisfied that it is necessary or expedient so to do, do hereby requisition the said property and I hereby order the said.....

(enter the name) to surrender or delivery possession thereof to..... (enter designation of officer) within thirty days of the service of this notice.

If the said..... (enter the name) refuses or fails to comply with the above order, it shall be lawful for me to take possession of the property and for that purpose to use such force as may be necessary.

SCHEDULE

Signature.....

Designation.....

To.....

FORM 'C'

(See rule 6)

FORM OF NOTICE TO BE ISSUED BY THE COMPETENT AUTHORITY UNDER SUB-SECTION (2) OF SECTION 5 OF THE H.P. REQUISITIONING AND ACQUISITION OF IMMOVABLE PROPERTY ACT, 1973

Whereas the premises known as..... have been requisitioned under section 3 of the Himachal Pradesh Requisitioning and Acquisition of Immovable Property Act, 1972;

And whereas the said premises are in need of repairs specified in the schedule hereto appended;

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 5 of the said Act, I....., being the (enter name) (enter designation) competent authority under the said Act, do hereby order.....

the landlord of the said premises to execute, the repairs specified in the schedule being repairs which are necessary the premises are situated within a period of..... from the date of service of this notice. If the said landlord fails to execute the repairs specified in this order within the aforesaid period, I shall cause the same to be executed at his expense and the cost thereof shall, without prejudice to any other mode of recovery, be deducted from the compensation payable to him.

SCHEDULE

Signature.....
 Designation.....
 (Competent Authority).

To

FORM 'D'

[See rule 7(2)]

FORM OF THE ORDER TO BE ISSUED BY THE COMPETENT AUTHORITY UNDER SECTION 6(2) OF THE H. P. REQUISITIONING AND ACQUISITION OF IMMOVABLE PROPERTY ACT, 1973

Whereas the property specified in the schedule annexed hereto was requisitioned by order of the.....

No.

Dated..... with effect from the..... under the Himachal Pradesh Requisitioning and Acquisition of Immovable Property Act, 1972;

And whereas it has now been considered necessary that the said property is no longer required for the public purpose for which the same was requisitioned.

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 6 of the aforesaid Act, I, being competent authority, hereby order the release of the said property from the requisitioning and further order the to handover possession (name and designation of officers) of the said property to..... (name of the owner or successors in interest), within fifteen days from the issue of this order.

SCHEDULE

Signature.....
 Designation.....
 (Competent Authority).

To

FORM 'E'

[See rule 7(3)]

FORM OF NOTICE TO BE ISSUED BY THE COMPETENT AUTHORITY UNDER SUB-SECTION (4) OF SECTION 6 OF THE H.P. REQUISITIONING AND ACQUISITION OF IMMOVABLE PROPERTY ACT, 1973

Whereas the property specified in the schedule annexed hereto was requisitioned for a public purpose vide No. dated..... with effect from the..... under the Himachal Pradesh Requisitioning and Acquisition of Immovable Property Act, 1972;

And whereas it has been considered necessary that the said property is no longer required for the public purpose for which the same was requisitioned;

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 6 of the aforesaid Act, I, being competent authority, hereby order the release of the said property from the requisitioning;

And further order that as the whereabouts of..... are not known, (name of owner or successor-in-interest) nor has he any agent or other person/empowered to accept the delivery on his behalf, in exercise of the powers conferred by sub-section (4) of section 6 of the aforesaid Act, I, as the competent authority, inform the parties concerned through this notice to take delivery of the said premises by affixing this notice on the conspicuous part of the said property and also informing the parties concerned by publishing this notice in the Official Gazette of the Himachal Pradesh Government.

SCHEDULE

Signature.....
 Designation.....
 (Competent Authority).

FORM 'F'

[See rule 8]

NOTICE AND ORDER

Whereas it appears to the Governor of Himachal Pradesh that the property requisitioned under sub-section (2) of section 3 of the H.P. Requisitioning and Acquisition of Immovable Property Act, 1972, and described in the schedule hereto annexed is needed for a public purpose*....., being a purpose of the State and that the said property should be acquired;

Now, therefore, in exercise of the powers conferred by proviso to sub-section (1) of section 9 of the aforesaid Act, the Governor of Himachal Pradesh hereby call upon..... being the

..... owner of the said property

% person in possession of the property to show cause to the Secretary (P.W.D.) to the H.P. Government, Simla within fifteen days of the date of service of this notice upon him why the said property should not be acquired.

SCHEDULE

Secretary (P.W.D.) to the Government of Himachal Pradesh.

To

*Here mention the purposes for which the property shall be acquired.

%Strike off the irrelevant words.

FORM 'G'

(See rule 8)

ORDER OR NOTICE

Whereas by a notice issued under the proviso to sub-section (1) of section 9 of the Himachal Pradesh Requisitioning and Acquisition of Immovable Property Act, 1972, was called

(enter name of the person) upon to show cause within the period specified therein why the property specified in the schedule hereto annexed should not be acquired.

And whereas the said period has expired and no cause has been shown against the said notice or the cause shown against the notice has been considered;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the section 9 of the aforesaid Act, the Governor of Himachal Pradesh having satisfied that it is necessary or expedient so to do, do hereby acquire the said property and the said property now vest absolutely in the Government free from all encumbrances henceforth.

SCHEDULE

Secretary (P.W.D.) to the
Government of Himachal Pradesh.

To

FORM 'H'

(See rule 11)

SUMMONS TO WITNESS
CASE No. of 19

In the office proposed requisitioning/acquisition/fixation of compensation in respect of

To

Whereas your attendance is required to give evidence/produce the documents described in the list enclosed in the case, you are hereby required (personally) to appear before the undersigned on the day of 19 at O'clock in the forenoon/afternoon and to bring with you (or to send to this office) the said documents.

In case you fail to comply with this order without lawful excuse, you will be subject to the consequence of non attendance laid down in rule 12 of order XVI of the Code of Civil Procedure.

Given under my hand and the seal of this office, this day of 19

Seal.

Competent Authority/Arbitrator.

FORM 'I'

(See rule 11)

REQUISITION FOR PUBLIC RECORD

To

Please arrange to send per bearer/through your clerk on the public record(s) mentioned below for my examination in connection with the proposed requisitioning/acquisition/fixation of compensation in respect of

Given under my hand and seal of this office, this day of 197

Details of Record

1.
2.
3.

Competent Authority/Arbitrator.

FORM 'J'

(See rule 11)

FORM OF COMMISSION

In the matter of

It is ordered as follows:—

1. A commission may issue direction to for the examination upon interrogatories or *viva voce* before the aforesaid Commissioner of the following witnesses:—

- (1)
- (2)
- (3)

2. In the event of any witness on his examination, cross-examination or re-examination producing any book, document, letter, paper or writing and refusing for good cause to be stated in his deposition, to part with the original thereof, then a copy thereof, or extract therefrom certified by the Commissioner to be a true and correct copy or extract shall be annexed to the witness's deposition.

3. Each witness to be examined under the commission shall be examined on oath, affirmation or otherwise in accordance with his religion by or before the said Commissioner.

4. The deposition to be taken under and by virtue of the said commission shall be subscribed by the witness or witnesses and by the Commissioner.

5. The interrogatories, cross-interrogatories and deposition together with any documents referred to therein or certified copies thereof or extracts therefrom shall be sent to the competent authority on or before the

arbitrator day of such further or other day as may be ordered by registered post.

Dated this day of 19

Competent Authority/Arbitrator.

By order,
GANGESH MISRA,
Secretary.

**भाग 4—स्थानीय स्वायतः शासन म्युनिसिपल बोर्ड, डिस्ट्रिक्ट बोर्ड, नोटिफाइड और टाउन एस्ट्रिया
तथा पंचायत विभाग**

सूच्य

भाग 5—वैयक्तिक अधिसूचनाएं पौर विज्ञापन

In the Court of Shri Surendra Parkash, M.A, LL.B.,
Senior Sub-Judge, Simla

ARBITRATION CASE NO. 41/2 OF 1974

State of Himachal Pradesh through the Executive
Engineer, National Highway Division, Himachal Pradesh
Public Works Department, Simla .. Petitioner.

Versus

M/s Babu Ram and Sons Public Works Department
Contractor 2 Nabha Estate, Simla .. Respondent.

To

M/s Babu Ram and Sons Contractor 2 Nabha Estate,
Simla.

Whereas the petitioner has filed an application for extension of time in the matter of arbitration between the Union of India *versus* M/s Babu Ram and Sons Contractor in this Court. In this behalf notices/summons to the above named respondent were issued several times, but they are evading the service or have concealed themselves. It has been proved to the satisfaction of this court that the above named respondent cannot be served through ordinary way. Hence this proclamation is issued against them that they should appear in this court on 9-1-1975 at 10 A. M. personally or through advocate or any authorised agent, failing which *ex parte* proceeding shall be taken against them.

Given under my hand and the seal of the court
this 23rd November, 1974.

Seal.

**SURENDRA PRAKASH,
Senior Sub-Judge, Simla.**

PROCLAMATION UNDER ORDER 5, RULE 20, C.P.C.

In the Court of Shri Surendra Prakash, M.A,LL.B.
Senior Sub-Judge, District Simla at Simla

SUIT NO. 269/1 OF 1973

Shri Kailash Chand s/o Shri Paras Ram, r/o Sabathu
presently resident of Mati Villa, Kaithu, Simla. Plaintiff.

Versus

Shri Amar Dass, resident of Mohu Churag, Tehsil
Karsog District Mandi (H.P.).....Defendant.

To

Shri Amar Dass, resident of Mohu Churag, Tehsil
Karsog, district Mandi (H.P.).

Whereas in the above noted case it has been proved to my satisfaction that the above-named defendant Shri Amar Dass can not be served in the normal course of service. Hence this proclamation is hereby issued against the above-named defendant and is directed to appear in this Court on 21-12-1974 at 10 A.M. personally or through a pleader or authorised agent. Failing which an *ex parte* proceeding will be taken against him.

Given under my hand and the seal of the Court this
26th day of November, 1974.

Seal

**SURENDRA PRAKASH,
Senior Sub-Judge, Simla.**

In the court of Shri R. L. Khurana, Senior Sub-Judge
Kangra, at Dharmshala

MISC. APPLICATION NO. 12 OF 1974

Shri Khazana

.. Applicant.

Vs.

Parkash Chand and others. .. Defendants.

Versus.—1. Parkash Chand 2. Shashi Pal 3. Satantar Kumar sons of Jagdish Chand 4. Satyawan 5. Sarvan Kumar 6. Satish Kumar sons of Bihari Lal, caste Mahajan, residents of Nagrota Bagwan, Tehsil and District Kangra. 7. Julfi s/o. Bholu Defendants No. 1 to 7 caste Ghirth, r/o Ranuh, Mauza Fawari, Tehsil and District, Kangra.

Whereas the plaintiff/applicants have filed an application on 26-3-1973 for final decree against the order dated 18-3-1971 of this Court. In this behalf notices to the above-named defendants were issued several times, but they are evading the service or have concealed themselves. Now it has been proved to the satisfaction of this Court that the above-named defendants can not be served through ordinary way, hence this proclamation under order 5, rule 20, C. P. C. is issued against them that they should attend this Court on 2-1-1975 at 10 A.M. personally or through Adv. or an authorised agent, failing which *ex parte* proceedings shall be taken against them.

Given under my hand and the seal of the Court
on 25/30-11-1974.

Seal.

**R. L. KHURANA,
Senior Sub-Judge,**

न्यायालय श्री आर० एन० खुराना, सीनियर सब-जज महोदय, कांगड़ा
स्थान धर्मशाला

उत्तराधिकारी प्रमाण पत्र प्राप्ति हेतु प्रार्थना पत्र
मकदमा नम्बर 7, साल 1972

श्रीमती सीता देवी बेबा नौधा राम उर्फ निरुद्ध चन्द, जगर सिंह
जगदीश चन्द पिसरान गेधा राम उर्फ निरुद्ध चन्द, मदन लाल नवालिंग
उमर काशवन 15 साल बरफाकत श्रीमती सीता देवी सायला न० 1
सायला मजकूर, वासी टीका सक्खनी, मौजा यकोहा, तहसील देहरा, जिला
कांगड़ा, सोमा देवी पत्नी बीर सिंह राणा, सकना पोलियां परोहतां,
तहसील व जिला ऊना (हिमाचल प्रदेश)।

बनाम

सर्व जनता

उपर सिद्धित उन्नाम वासा में सायल ने उत्तराधिकारी प्रमाण

पत्र प्राप्ती हेतु प्रार्थना पत्र इस न्यायालय में दिया है अतः ईस्टहार द्वारा सर्व जनता को सूचित किया जाता है यदि "इस के विषय में कोई अपत्ती हो तो तिथि 2-1-1975 उपस्थित इस न्यायालय में होकर प्रस्तुत करें अन्यथा आगामी कार्रवाई की जावेगी।

आज तिथि 30-11-1974 को मेरे हस्ताक्षर व मोहर से जारी हुआ।

मोहर।

आर० एल० खुराना,
सीनियर सब-जज, धर्मशाला।

I change my name from Jitender Kumar Sharma to "Yatender Nath Sharma" s/o Shri Shambhu Ram Sharma, resident of Vill. & P. O. Lambloo, Tehsil & District Hamirpur, Himachal Pradesh.

Jitender Kumar Sharma,
c/o Sh. Shambhu Ram Sharma,
Soharu Niwas, Hamirpur,
Himachal Pradesh.

भाग 6—भारतीय राजपत्र इत्यादि में से पुनः प्रकाशन

शून्य

भाग 7—भारतीय निर्वाचन आयोग (Election Commission of India) की वैधानिक अधिसूचनाएं तथा अन्य निर्वाचन सम्बन्धी अधिसूचनाएं

PERSONNEL (A) DEPARTMENT

NOTIFICATION

Simla, 26th November, 1974

No. 3-67/71-DP-App. (Vol. II).—The Election Commission of India's Notification No. 154/HP/74, dated the 12th November, 1974/Kartika 21, 1896 (S) is hereby re-published in the Himachal Pradesh Government Rajpatra for general information.

By order,
U. N. SHARMA,
Chief Secretary.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan,
Ashoka Road,
New Delhi-110001.

Dated the 12th November, 1974.
Kartika 21, 1896 (S)

NOTIFICATION

No. 154/HP/74.—In exercise of the powers conferred by sub-section (1) of section 13 A of the Representation of the People Act, 1950, the Election Commission of India, in consultation with the Government of Himachal Pradesh, hereby nominates Shri K.C. Pandeya, Agriculture Production Commissioner and Financial Commissioner, Himachal Pradesh, as the Chief Electoral Officer with effect from the 4th November, 1974 and until further orders, vice Shri L. Hmingliana Tochhawng granted leave.

By order,
A. N. SEN,
Secretary.

अनुपूरक

शून्य

PART I

AGRICULTURE DEPARTMENT RESOLUTION

Simla-2, the 1st November, 1974

Subject:—Report of the Commission of Enquiry about the purchase of Superphosphate during November, 1968 and March, 1969.

OBSERVATIONS

No. 38-36/72-Agr.(Sectt.).—The Government of Himachal Pradesh place on record their appreciation and gratitude for the ability and industry with which Mr. Justice D.B. Lal of Himachal Pradesh High Court constituting a Single Member Commission of Enquiry examined the important issues which had been referred to the Commission, which involved the Collection, examination and shifting of the voluminous evidence placed before the Commission.

2. The Government, further, take the opportunity to record their appreciation of the assistance rendered by all who appeared before, and assisted the Commission in ascertaining facts.

3. The conclusions of the Commission have been accepted by the Government and suitable action is being taken, where found necessary.

ORDER

ORDERED THAT the resolution together with the Commission's Report be published in the Himachal Rajpatra for general information.

Ordered also that copies of the resolution and the Report be released for sale to the public.

By order,
K. C. PANDEYA,
Secretary.

**REPORT
OF
THE COMMISSION OF ENQUIRY FERTILIZER
HIMACHAL PRADESH**

**CHAPTER I
GENERAL**

Himachal Pradesh consists mainly of hilly terrain ranging in altitudes from 800 ft. to 22,000 ft. above sea level. Alongwith vast resources of forests and horticulture, crop-raising is the next avocation which sustains the economy of the Pradesh. The agricultural production of a tract depends to a large extent on the productivity of its soils. Some soils are inherently productive, while others can be made so by adopting proper agronomic practices. Five major factors which determine the properties of a soil are, climate, especially temperature and rainfall; living and dead plants and animal in and on the soil; kind of rock material from which soils are formed; topography and drainage of the land; and length of the time that soil formation has taken place. Apart from the above factors, the influence of man in changing the nature of soils is not less important. There, in fact, lies the importance of fertilizers. The soils in the hilly regions of northern India are generally deficient in phosphorus and require liberal manuring with phosphatic fertilisers to support a variety of cultivated crops and fruits plants. Superphosphate is a suitable manure for all crops and may be applied to a wide range of soil types. With the advanced technology and agriculture science, the use of fertilisers has thus been given some extra importance in Himachal Pradesh. Scientists have discovered 13 nutrients which are obtained from the soil of which six are used in relatively large quantities and are consequently designated as macronutrients. These are nitrogen, phosphorus, potassium, calcium, magnesium and sulphur. Of these, the 1st three are commonly supplied to the soil as farm manure and commercial fertilizers. Therefore, these are often called fertilizer elements. Calcium, magnesium and sulphur are added as amendments. Acid soils are deficient in calcium and magnesium. The crop growth in highly alkaline soils may be affected adversely because of lack of calcium. Both of these adverse effects are corrected by the addition of calcium. In acid soils calcium is added as lime and in alkali soils as gypsum or calcium sulphate. In many soils, sulphur is applied as an incidental ingredient of such fertilizers as superphosphate, ammonium sulphate and farm manure. In special cases, sulphur may be applied alone as flowers of sulphur either to correct nutritional deficiencies or to adjust the reaction of the soil. Inadequate supply of any essential element in the soil retards growth and growth processes and unless the deficiency is corrected, the plant will finally die. This would naturally indicate that a particular type of fertilizer would be useful in a defined situation and in relation of a special category of soil. Apart from this, the use of manure or fertilizer would depend upon the height of the terrain, the weather condition, the crop to be raised and the type of soil which the farmers has to deal. This would mean, in other

words, that all the varieties of fertilizers were required to be stored and distributed according to the needs of the farmers.

Single superphosphate is the most common form of phosphatic fertilizer available in India. It is being manufactured in India and is also imported. It is manufactured by treating ground phosphate rock with sulphuric acid in approximately equal proportion by weight. The material formed is a mixture of monocalcium phosphate and calcium sulphate in about equal amounts. Single superphosphate is a source of three essential elements namely phosphorus, sulphur and calcium which are necessary nutrients to a plant in certain conditions. each 100 kg. of this fertilizer supplies 16 to 18 kg. phosphoric acid, 16 to 18 kg. calcium and about 12 kg. sulphur.

The soils in the hilly regions are generally deficient in phosphorus. The deficiency of the element may not only handicap the growth of plants but may also affect the quality of the produce. Phosphorus helps in the proper development of the root system of plants, and facilitates the process of ripening of grain. The proper development of the root system in plants helps them to attain good, physical heights by assuring a constant flow of plant nutrients from the soil. Phosphoric acid also builds its resistance against diseases in plants.

Single superphosphate is in the form of fine powder and is grey in colour. It should be free from excessive lumps and should not form a hard cake on storage. It is marketed in 50 kg. gunny bags lined with polythene to prevent damage to the bags by the free acid.

The water soluble phosphoric acid (P_2O_5) is 16 to 18 in superphosphate, while it is 48 in diammonium phosphate. The material is exceptionally well suited for the manufacture of concentrated mixed fertilizers on account of its high phosphoric content. Apart from diammonium phosphate and ammonium phosphate, another phosphatic fertilizer with which we have to deal is rock phosphate. The phosphorus in rock phosphate is only slowly available to the crops. When used for direct application, this material is used to raise the total phosphorus level of soils in long time soil improvement programmes rather than as a substitute for the soluble forms of phosphorus. As a general rule, the effectiveness of the material is dependent on its degree of fineness. Best results can only be obtained when the soil possesses a relatively strong acid reaction.

In Himachal Pradesh owing to mountainous terrain, arable land is found only in valleys. Due to paucity of arable land intensive, and not extensive, cultivation is the only solution. For this the use of fertilizer becomes all the more important. Then only the farmers can expect increase in the yield of cereals, vegetables and food crops in the shortest possible time. Thus, there has always been a great demand by the farmers of the chemical fertilizers. In order to make the fertilizers available within the easy reach of the cultivators, the Government has set up a net work of about 1,700 fertilizer depots all over the Pradesh. From the depots the fertilizers are distributed to the cultivators at All-India pool price. The Fertilizer Association of India (FAI) plays an important role in this regard. The price level is fixed quarterly. The indigenous firms which supply fertilizers are notified to the State Government. The purchases are made from such notified firms. The diammonium phosphate (DAP) and the ammonium phosphate are in

the category of imported fertilizers and these are distributed to the State from the central pool. The immediate need is assessed by the District Agriculture Officer and the information is passed on to the Director of Agriculture. According to need, the indents are placed and fertilizers are supplied by the firms.

Since there are no railways in the interior of the Pradesh, roads play an important role. Very often sufficiently long distances are covered by mules or pedestrains. In order to feed the depots situated in the interior, it is even normal that upto a certain stage the fertilizer is brought by a motor-truck and thereafter it is carried on the back of a horse or on the back of a labourer hired for the purpose. There is thus a difficulty in the free movement of fertilizers from one depot to the other. The Agriculture Department, being the source of supply, has naturally to be vigilant inasmuch as, all the varieties of fertilizers must be kept in stock and promptly supplied to the farmers. When the Government has taken the responsibility of supplying the fertilizers as a commercial pursuit, the duty lies upon its concerned Department to cater the needs.

Since the demand differs according to soil, season, height and crop, the Department cannot compel farmers to purchase a particular type of fertilizer. Even retransfer of stock of fertilizer from one depot to another, considering the transport facility and nature of terrain may not be economical in a number of cases. For all this, a planning well ahead in time has got to be made. The fertilizers are not easily available. In this connection, a buffer stock in each depot has got to be defined. The Punjab Government had issued a directive that near about 10 tonnes of fertilizer must remain in stock at each depot.

As I have stated before, the distribution of fertilizers was one of the main functions of the Agriculture Department. Therefore, the set up of that Department and the hierarchy of its officers need be noticed. At the apex is, of course, the Minister and below him is the Secretary and the Joint Secretary. The Director of Agriculture has also been functioning as Joint Secretary to the Government. The Deputy Director (Extension) was really responsible for the storage and distribution of fertilizers. He was getting information from the District Agriculture Officers who were posted in different districts. The depots were in the charge of such officers and they had to replenish them. The Department had also set up a wing for proper analysis of fertilizers. During the period with which I am concerned, the Minister-in-charge was Pt. Sukh Ram. There were two Secretaries (1) Shri S.C. Jain, I.A.S., and (2) Shri P.K. Mattoo, I.A.S. The office of the Director was held by two officers during the relevant period. Shri Prem Sagar was the Director during 1-5-1968 to 5-8-1968. Thereafter the office of the Director was held by Dr. B.S. Jogi who joined the Department on 5-8-1968 whereafter Shri Prem Sagar reverted as Deputy Director (Extension). A few more officers need be mentioned in this connection. Shri S.P. Jain was the Assistant Director (Headquarters) and since there is some controversy as to his note regarding the preference of Shriram Fertilizers (hereinafter to be known as D.C.M.) over Jaishri Chemicals, his name need also be noticed. Shri G.R. Kaura was the Assistant Agriculture Chemist in July and October, 1968. He submitted the reports by analysing the samples of the abovenoted two firms and also of the Fertilizer Corporation of India (hereinafter to be known as F.C.I.).

CHAPTER II

GENESIS OF THE ENQUIRY

GENERAL RESUME

Based on the demand of fertilizers, the annual plan, 1968-69 was prepared and the target was fixed at 22,300 tonnes of phosphates. Accordingly in the month of May, 1968 tenders were invited from different firms for supply of so much quantity of superphosphate. The tenders were submitted by Jaishri Chemicals and Shriram Fertilizers (D.C.M.), which were duly examined by a committee consisting of:

- (1) Shri K. S. K. Rao, Deputy Director *Chairman*, Agriculture (Soil Conservation), Himachal Pradesh, Simla.
- (2) Shri P. C. Thakur, Agriculture *Member*, Chemist, Himachal Pradesh, Simla, and
- (3) Shri B. R. Sharma, Fertilizer *Member*, Demonstration Officer, Himachal Pradesh.

The committee submitted its report on 1-8-1968 and recommended the case of both DCM and Jaishri Chemicals. It had also noticed the moisture and P_2O_5 contents in the samples sent by these two firms. Shri S. P. Jain, Assistant Director (Headquarters), however, objected that the moisture content in the DCM sample was more as compared to Jaishri Chemicals and so the same should not be preferred. Shri Prem Sagar objected and opined that nevertheless DCM were to be preferred. In the meantime the target of 22,300 tonnes was reduced to 1,813 tonnes, and Dr. B. S. Jogi recommended for setting up another committee so that a final decision could be obtained between the two firms. The second committee consisted of:

- (1) Shri K. S. K. Rao, *Chairman*, Deputy Director Agriculture (Soil Conservation), H.P.
- (2) Shri O. P. Krishna, *Member*, Agriculture Marketing Officer, H.P.
- (3) Shri S. P. Jain, *Member*, Assistant Director (Headquarters), Himachal Pradesh.
- and
(4) Shri P.C. Thakur, *Member*, Agriculture Chemist, Himachal Pradesh.

This Committee gave its report on 23-9-1968 that the DCM sample should be preferred. On the very same day the report of the committee was accepted and the Development Minister approved the proposal on 24-9-1968. The financial sanction was obtained on 17-10-1968. The Lt. Governor gave his concurrence on 1-11-1968.

In October, 1968 the FCI started its correspondence for supply of fertilizers. They quoted more favourable rates and one Shri Vurney had even written in August, 1968 that the FCI was a Government concern and had a stock of 25 thousand tonnes of fertilizers. As such a suggestion was made that preference should be given

in favour of the FCI. There was a definite thinking in the Agriculture Department as to whether the purchase should be made from the FCI or from the DCM. For reasons to be stated, the DCM was still preferred and the supplies were started from 2-11-1968. At first the order of 1100 tonnes was placed and the supply thereto was completed upto 13-12-1968.

Thereafter the Department stood in the need of another quantity of 500 tonnes. At one stage it was considered that this quantity would be purchased from the FCI. The Department, however, noted that the DCM would not give the rebate over the quantity already supplied by them. The Government would thus suffer a loss. Therefore the decision was again made in favour of the DCM and the quantity of 500 tonnes was also purchased from them. The Finance Department, as before, was approached for administrative/financial sanction. This was given in the first instance. Subsequently it appears, the financial sanction was required to be revised. The case was again submitted to the Finance Department. In the meantime in September, 1968 certain debates took place in the Legislative Assembly of Himachal Pradesh. The members of the Assembly made some scathing criticism as to the storage of fertilizers and the preference shown to the DCM. The Finance Minister Thakur Karam Singh, accordingly exhibited some special interest in the case. When the case was sent to the Finance Department for re-consideration of their previous sanction, Shri Mithan Lal Jain, Deputy Secretary (Finance) was specially asked by Thakur Karam Singh to go through the merits of the case. He submitted a detailed report on 27-8-1969. Upon that Thakur Karam Singh sent a report on 16-3-1970 to Dr. Y. S. Parmar, Chief Minister. Thereafter the case was examined by Shri K. N. Channa the Chief Secretary who had naturally to ask for reports from the officers of the Department. When Shri Channa submitted his report to the Chief Minister, it seems Thakur Karam Singh was not satisfied. He sent another detailed note to the Chief Minister, on 21-10-1971. In the meantime an audit para No. 15 had, also appeared in 1970. All this led to the institution of the present enquiry under the Commission of Enquiry Act, 1952.

Audit Para.—At the very outset it is significant that the audit Para No. 15 was not based on correct information. This may be noticed at this stage. The said audit para is in the following terms:—

"15. Fertilizers. —Imported phosphatic fertilizers worth Rs. 72.85 lakhs and Rs. 2.73 lakhs were received (through Government of India) during 1967-68 and 1968-69 respectively. Consumption and sales thereof were worth Rs. 1.89 lakhs and Rs. 1.83 lakhs only during 1967-68 and 1968-69. Fertilizers worth Rs. 72.36 lakhs were held in stock at the end of September, 1968.

Non-utilization of the fertilizers by cultivators was attributed to high cost."

The note of the Chief Minister (Ex. A. 96) starts with paragraph 15 of the audit report of 1970. He mentioned that fertilizers worth Rs. 72.36 lakhs were held in stock till the end of September, 1968. There appears to be a *prima facie* mistake in all this. Superphosphates were included in these fertilizers. Therefore, it may not be correct to say that superphosphates worth Rs. 72 lakhs were lying in stock upto the end of September, 1968. According to the aforesaid audit para, the consumption of "imported phosphatic fertilizers" was of the value of Rs. 1.89 lakhs for the year 1967-68 and was of the value

of Rs. 1.83 lakhs for the year 1968-69. According to the report as to procurement and distribution of fertilizers beginning from 1967-68 which was prepared on the basis of the data supplied to the Estimate Committee (Ex. A. 114), the figure of consumption of imported phosphatic fertilizers during the years 1967-68 and 1968-69 should be Rs. 2.68 lakhs and Rs. 14.48 lakhs respectively. Shri Prem Sagar (CW. 13) stated before the Commission that correct figures were not available at that time on the basis of which the audit para No. 15 was written. Moreover, in the audit para the consumption figure as well as the stock position were given pertaining to the period ending September, 1968 only. Thereafter these figures were liable to be altered until the end of the financial year which was 31st March, 1969. It is thus abundantly clear that the genesis of the enquiry laid in the supply and consumption of imported phosphatic fertilizers, while the case set out for the Commission pertained to superphosphates which were never imported phosphatic fertilizers. According to Thakur Karam Singh (CW. 23) a starred question was answered in the Assembly on 15th September, 1969 and thereafter half an hour's discussion took place on September 23, 1969. As a result to that discussion, the Chief Minister asked him to examine the case and put a note. According to Thakur Karam Singh, his first note dated March 16, 1970 (Ex. A. 7) was the result of that request made by the Chief Minister. Subsequently when the Chief Secretary Shri K. N. Channa (CW. 4) gave his comments Thakur Karam Singh was prompted to write another note for the Chief Minister which is dated October 21, 1971 (Ex. A. 94). On the other hand, Pt. Sukh Ram (CW. 24) the other Minister, assured the Commission that the House was very well satisfied with his exposition of correct situation and not a finger of protest was raised against the purchase of fertilizers. However, he admitted that at the instance of Shri Hira Singh Paul, M.L.A. the half-an-hour discussion was held, but he was more than satisfied by the facts narrated by the Minister. Pt. Sukh Ram too relied on the debates held in Vidhan Sabha on these dates pointed out by the Finance Minister. A perusal of these debates no doubt indicates that there was some furore in the Assembly with respect to the purchase of fertilizer and this naturally prompted the Government to set up the enquiry.

The two Ministers gave their own statements before the Commission. They did not mince matters, and very much admitted that there was political animosity between them. Pt. Sukh Ram (CW. 24) the Development Minister had a long tale to tell in that connection. The Commission, however, restrained him from ventilating any further of his political grievance because that was not relevant for the purpose of the enquiry. Nevertheless the fact of the matter is, that the setting up of the enquiry was influenced, to some extent at least, because of this political animosity between the two ministers. This is so because the Finance Department notwithstanding so much criticism which Mithan Lal's note dated 27-8-1969 (Ex. A. 23) indicates, had no objection to give their concurrence at the prior occasions in respect of this deal. It appears the wisdom drawn on the Deputy Secretary (Finance) for the first time on that date and a very detailed note was written pointing out every possible irregularity which could as well have been indicated at the earlier stage. Much water seems to have flown underneath the bridge from October, 1968 until the date Shri Mithan Lal wrote down his note. It appears the political atmosphere was not favourable to Pt. Sukh Ram the Development Minister. That may be the reason why Thakur Karam Singh was insistent for an

enquiry and the Chief Minister was persuaded to make a suggestion accordingly. At the same time, the Commission appreciates the step taken by the Chief Minister. It was rather necessary in public interest and also for reposing public confidence. Thakur Karam Singh produced a letter (Ex. A. 113) which was written by Dr. Y. S. Parmar, Chief Minister to Pt. Sukh Ram in which he pointed out that the expenditure incurred by the Development Department was done without obtaining proper sanction and without following the normal procedure. The result was, that the Chief Minister had to give *ex-post facto* approval in at least two cases which he had withheld because of such irregularities. He wanted the Minister to bring these facts to the notice of his departmental officers so that they might exercise strict vigilance in future. This letter coupled with the facts narrated by Thakur Karam Singh in his two notes naturally tilted the balance in the mind of the Chief Minister in favour of an enquiry under the Commission of Enquiry Act.

Notification.—Accordingly the Commission of Enquiry was appointed on June 13, 1972 and the following notification was issued by the Government:—

GOVERNMENT OF HIMACHAL PRADESH

DEPARTMENT OF AGRICULTURE

NOTIFICATION

Simla-3, the 13th June, 1972

No. 38-36/72-Agr. (Sectt).—Whereas, inspite of substantial fertilizers being available in stock in Himachal Pradesh, sanctions for purchase of 1100 tonnes of Superphosphate worth Rs. 4,75,981 and 500 tonnes of Superphosphate worth Rs. 2,18,520 were issued in November, 1968 and March, 1969 respectively;

And whereas the Governor, Himachal Pradesh, is of the opinion that it is necessary to appoint a Commission for enquiry into these purchases which constitute a matter of public importance;

Now, therefore, the Governor, Himachal Pradesh, in exercise of the powers vested in him under sub-section(1) of section 3 of the Commission of Enquiry Act, 1952, is pleased to appoint Mr. Justice D. B. Lal of the Himachal Pradesh High Court as the Commission of Enquiry, and to require him to enquire comprehensively into and report, *inter alia*, on the following issues, in relation to the two purchases of fertilizers during November, 1968 and March, 1969, within six months of the date of this notification:—

- (1) The necessity of purchasing Superphosphate in 1968 and 1969, notwithstanding the fact that substantial fertilizer stocks were available in the State at the end of September, 1968.
- (2) Purchase of the aforesaid Superphosphate from M/s. Sriram Chemicals and Fertilizers to the exclusion of other suppliers of fertilizers who had offered to supply the requisite fertilizers.
- (3) The responsibility which can be fixed upon the persons concerned for irregularities, if any, which this enquiry may reveal.

The Governor, Himachal Pradesh, having regard to the nature of enquiry to be made and keeping in view the other circumstances of the present case has decided

that the provisions of sub-sections (2), (4) and (5) of section 5 of the Commission of Enquiry Act, 1952, should be made applicable to the Commission and hereby directs that the said provisions shall apply to the Commission accordingly from the date of the issue of this notification.

By order,
H. S. DUBEY,
Secretary to the Government of
Himachal Pradesh.

Sittings of the Commission

Since under the Commission of Enquiry Act, 1952, no rules have been framed by the State Government, the Commission evolved its own procedure of recording evidence. On the first day of the sitting of the Commission, the procedure was explained and parties were recognised. In fact, six parties sought appearance before the Commission, namely:—

- (1) M/s. Shriram Chemicals and Fertilizers (DCM) represented by Shri Sushil Malhotra along with Shri H. K. Bhardwaj, Advocates;
- (2) The Agriculture Department represented by Shri Manmohan Nath, Advocate;
- (3) Dr. B. S. Jogi, Director of Agriculture, Himachal Pradesh, represented by Shri Inder Singh, Advocate;
- (4) Pt. Sukh Ram, Development Minister, represented by Shri Chhabil Dass alongwith Shri D. P. Sud, Advocate;
- (5) The Finance Department, represented by none; and
- (6) Thakur Karam Singh, Finance Minister, represented by Sarvshri H. S. Thakur and O. P. Sharma, Advocates.

After previous notice in papers, affidavits were invited from persons who may be interested in depositing before the Commission. In response to such a notice, 18 affidavits were received which were scrutinized by the Commission and a list of 24 witnesses was prepared who were summoned. The statements of these witnesses were recorded in 166 typed-pages. The Commission summoned several relevant files from the Agriculture Department and also from the Chief Minister's Secretariat. In all 114 exhibits were sought to be proved before the Commission. The Commission also sent for the Audit Report, 1970, debates of the H. P. Assembly, Annual Plan 1968-69, 7th and 14th reports of the Committee on Estimates and other literature on fertilizers. The Commission at first examined the individual witness and gave opportunity to all the six parties to cross-examine the witness. In this matter, opportunity was given to each party to present its view-point. Thereafter, extensive arguments were permitted on several dates.

CHAPTER III

THE TARGET OF 22,300 TONNES AND ITS SUBSEQUENT REDUCTION TO 1813 TONNES

The issue No. 1 which I propose to deal in the first instance, relates to the necessity of purchasing in superphosphates during the years 1968 and 1969. As I have stated,

above, the genesis of the enquiry lay in the statement of the Chief Minister that fertilizers worth Rs. 72.85 lakhs were lying in stock during the years 1967-68 and 1968-69 and, therefore, there was no necessity to purchase any more fertilizers.

TARGET

There can be no denying that tenders were invited from 22 firms for the supply of 22,300 tonnes of superphosphates. Eight firms had tendered in response, and by the time the deal was settled the demand was reduced to 1,813 tonnes. Thakur Karam Singh and his Finance Department have attacked the target of 22,300 tonnes, saying that it was fixed without taking regard to the stock position and consumption. Subsequently the figure was reduced apparently for no reason. The entire deal was intended to benefit a particular dealer, namely the DCM. Apart from this, inferior quality of fertilizer was purchased at a comparatively higher price, resulting in loss to the Government.

It has to be understood that in fact 22,300 tonnes of superphosphates were never purchased and therefore the said target fixed for purchase was never implemented. Damage or loss to the Government if any contemplated under the deal thus never fructified. One cannot visualize what would have been the position had the entire quantity been purchased. There was already a note of caution struck by the first committee set up for the purchase that so much quantity of fertilizer was difficult to store and more difficult to consume and therefore the actual requirement need be ascertained. Be it as it may, the fact of the matter is that 22,300 tonnes of superphosphates was never purchased and the Commission is confined in its deliberation to point out if any dishonesty was involved in fixing up the target.

After giving my best consideration to the evidence, both documentary and oral, I think I am on firmer ground to hold that no element of dishonesty or mala fide was involved when the target of 22,300 tonnes superphosphates was fixed and tenders were invited. Shri K.N. Channa (CW. 4) the then Chief Secretary, has opined in his note dated October 12, 1970 that the target was fixed "by mistake" as he did not come across "any evidence of mala fides in this". The Commission does not subscribe to this view and is rather of the opinion that the target was fixed on a legitimate hypothesis including the annual plan for the year 1968-69 in which several programmes were contemplated for intensive cultivation in order to achieve self-sufficiency in food requirement. It would be quite a different matter to consider that the department could be well advised to ascertain as to whether the valley area programme contemplated under the annual plan of 1968-69 was likely to be accomplished. If there was any contingency of its failure the risk to purchasing so much quantity of superphosphates could be avoided. At any rate, no one could visualize the situation in May, 1968 when the stock position was not even known until September, 1968. Therefore it was not even a mistake to fix up that target of 22,300 tonnes. At the same time by not purchasing that much quantity the Government avoided so much complications. It is one thing to say that the Minister or the officers concerned acted mala fide and quite another thing to submit that they acted with the best of intention, although a little more thinking could have been given and perhaps the target could be reduced initially. Ultimately it was reduced and only 1,813 tonnes were purchased. A little discretion, specially when the Minister

and his officers were governed by the best of intentions must be granted in these matters. How one particular officer react in a given situation cannot be the subject-matter of criticism especially when his *bona fides* are unquestionable and only an arm-chair thinking is resorted to, at a subsequent stage, when things are never placed in the same perspective as these were presented to the officer concerned at the appropriate time.

SHORTAGE OF FERTILIZER

I shall now deal with the circumstances which led to the fixation of the target of 22,300 tonnes. Decidedly there was an acute shortage of superphosphates during the year 1966-67. There are documents on the record to indicate this shortage. The first in series is a letter of November 2nd/3rd, 1966 (Ex.A. 45). It was written by one V. Sivaraman, Secretary in the Ministry of Food and Agriculture, Government of India, to Shri Bhagwati Saran Singh, Development Commissioner in Himachal Pradesh. In this letter it is specifically pointed out that there was acute shortage of sulphur and due to that shortage the production of superphosphate had gone down "substantially" during that year. To meet this shortage the Government of India was making arrangement to import complex fertilizers (imported fertilizers) as well as large quantities of rock phosphates for direct use after powdering. The Government of India suggested that the propagation of rock phosphate should be encouraged so that the consumption of superphosphate was reduced. From this letter, the Agriculture Department of Himachal Pradesh must have been scared in the beginning of November, 1966 and considered that they would not be getting superphosphates and as such must go ahead with the creation of a stock for the same. The other letter is of January 17, 1967 (P. 68, file Vol. IV). It is again a letter from the Government of India to Shri Bhagwati Saran Singh and dealt with the subject of "popularising the use of powdered rock phosphate". A very significant sentence occurs:

"In spite of the best effort of the State Trading Corporation and the established importers of sulphur there has been no improvement in the supply position of sulphur. The need for phosphatic fertilizers must, therefore, be partly met by the use of powdered rock phosphate as a straight fertilizer on acidic and other soils, wherever it can be used with advantage."

The Government of India also pointed out that there were two major difficulties in the use of rock phosphates: (1) the reluctance of farmers to use a new fertilizer, and (2) the inadequacy and high cost of arrangements for grinding, packing etc. This would prove the popularity attached to superphosphates and the inhibition relating to rock phosphates. Thereafter on February 19 1968 (Ex. A. 19) one Shri M. Subramaniam, Deputy Secretary to the Government of India wrote to all State Governments/Union Territories, that superphosphate and complex fertilizers containing both N and P 2.05% produced by the indigenous factories, were not taken over by the Central Fertilizer Pool. The Pool, however, imported such quantities of P 2.05 as were necessary to bridge the gap between indigenous production and demand thereof. This the Government of India was importing only ammonium phosphates and diammonium phosphate for the Pool during that year. The Fertilizer Association of India (FAI) had reported that 28 factories of Indian producers were supplying single superphosphates and that the State Governments/Union territories could avail that stock and make purchases from them.

In a second paragraph of that letter, a note of caution was sounded that kharif crops were approaching and the demand of the farmers could not be met with by the imported fertilizers. The Government of India wrote:

"It is, therefore, necessary that the State Governments take necessary steps for purchasing the indigenously produced phosphatic and complex fertilizers to meet in full the requirements of the special programmes like the H.V.P. and for normal agricultural programmes."

The letter further observed:

"The State Governments would be well advised to take advantage of the seasonal rebate now offered and should build up stocks of phosphatic fertilizers at consuming points so that scarcity of stocks is not felt at the time of basal application for kharif crops. The State Governments may either contact the producers themselves or advise their distributors to do so. A list of the producers is enclosed."

Along with this letter a list of 28 Indian producers including the D.C.M. and Jaishri Chemicals was sent. It is significant to note that the F.C.I. was not mentioned therein. The aforesaid letter depicts beyond doubt that the State Governments were advised to build up stocks of phosphatic fertilizers by purchasing them in large quantities from indigenous producers and it was also mentioned that some advantage of rebate was also available. These letters coupled with the advice given by the Government of India naturally prompted these officers to fulfil their demand by building up stocks of superphosphates. There was already the annual plan and the target of 22,300 tonnes was fixed under that. The superphosphates were in shortage. The department was in a natural hurry to purchase the entire requirement for the valley area programme.

Shri K.N. Channa (C.W.4) the then Chief Secretary, reiterated the position before the Commission. He referred to these letters received from the Government of India and stated that there was shortage of superphosphates at the relevant period of time. The department as such felt the necessity of creating sufficient stocks. Special drive was made, and the main idea was to make Himachal Pradesh a self-sufficient State in foodgrains.

It is, undisputed that during the year 1966-67 Himachal Pradesh was prejudiced because of single-zone for food supply. Because of this, there was all the more a need for self-sufficiency. Several discussions took place in the Cabinet, and the two Ministers testified regarding that. Thakur Karam Singh (C.W. 23) had to admit that in 1966-67 Himachal Pradesh was deficit in food production. This is what he stated:

"There was no doubt food crisis in 1966-67. Self-sufficiency in food was no doubt one of the objectives laid down by the Government of Himachal Pradesh. The contention of the department is that intensive cultivation programmes in several areas were to be launched. I do not know if the department wanted to procure high-yielding variety crops for intensive cultivation purpose. For intensive cultivation, fertilizers were no doubt required to be used by the farmers. Similarly other things like irrigation facilities and seed were also required to be procured. Fertilizer was one of the necessary items for intensive cultivation."

Pt. Sukh Ram (C.W. 24) of course, justified the need of the department for so much superphosphates in order to meet the valley area programme. He also specified the food crisis and the handicap due to single-zone food supply. He spoke for the intensive agriculture programme and the valley area cultivation. This programme, according to him, was finalized in December, 1967. For that programme the consumption figure of fertilizers during 1966-67 and 1967-68 was not material. The valley area programme was to be implemented in 1968-69. Shri K. N. Channa (C.W. 4) being Chief Secretary of the State, is supposed to be more conversant with all this. He stated that the single zone system for movement of foodgrains was introduced in November, 1966. Due to that, a special drive was made by the Agriculture Department for procurement of enough foodgrains. The main idea was that Himachal Pradesh becomes self-sufficient in the matter of foodgrains. Shri Charanjit Singh, District Agriculture Officer, Dharamsala (C.W. 19) stated that certain pockets in Kangra area were highly deficient in phosphates. One has to consider that Kangra area is practically one-half of Himachal Pradesh. The said officer further stated that the department was enthusiastic to grow high-yielding variety crops and that was the reason why so much superphosphate was in demand.

VALLEY AREA PROGRAMME

Now a few words about this valley area programme. In the annual plan of 1968-69 (Ex.A.41) the following extract appears:—

"Intensive Agricultural Area Programme and High Yielding Varieties:

Intensive Agricultural Programme on rice, wheat and oil seed has been in operation in the form of separate schemes in the hilly areas of Punjab recently merged in Himachal Pradesh. Four Development Blocks in Kangra and one in Kulu district were the avenue of the programme for introduction of improved seeds etc. All these schemes have been amalgamated into one under intensive Agricultural Area Programme for High Yielding Varieties.

In addition a scheme Intensive Agricultural Area Programme has also been proposed for covering other areas of Himachal Pradesh where this programme was envisaged in the Plan but could not be implemented due to certain administrative difficulties. It will cover four blocks of the Sirmur district and one of Bilaspur district. The provision has been made for one Assistant Project Officer and Five Agricultural Inspector besides some ancillary staff.

Special emphasis has been given under the Intensive Agricultural Area Programme for extensive cultivation of High Yielding Varieties. It will include roguing of crops of registered growers, procurement of improved seed and adoption of quick plant protection measures to be provided with two plant protection Mobile Squads and Vans. It is proposed to cover under High Yielding Varieties 10,000 acres under Paddy, 15,000 acres under maize and 50,000 acres under wheat during 1968-69."

At page 3 of the plan, under the heading "Distribution of Fertilizers", phosphatic target was 22,300 tonnes. As superphosphates were popular in Himachal Pradesh, the entire quantity was earmarked for that fertilizer. In fact the figure of 22,300 tonnes was taken from the Annual Plan (Ex.A.41).

The Department has filed extracts from the Budget of 1966-67, Major Head 31—Agriculture from page 110, item No. 70 (Exhibits A.91 and A.92). The following are the two extracts:—

"EXTRACT FROM THE BUDGET 1966-67 MAJOR HEAD 31—AGRICULTURE FROM PAGE 110 ITEM NO. 70.

(70)

Expenditure in connection with the Intensive Agricultural Programme (Rs. 50,600).

It is a new scheme proposed to be taken up under the Intensive Agricultural Areas Programme in 5 selected Blocks in Himachal Pradesh, which have considerable potentialities for increasing production of wheat, paddy and maize in view of the fact that some fertile valley located in these Blocks. The programme will be taken up, more or less, on the same lines as in other States. Hence provision.

(70)

Expenditure in connection with the Intensive Agricultural Programme (Other than Kinnaur)

Pay of Establishment

5 Extension Officers (Rs 130-10-200/10-320)		
(Agriculture)		
25 Gram Sewaks (Rs 60-4-80/5-120)		10,000
5 Beldars (Rs. 30-4-35)		
Allowances, Honoraria, etc.—		
Darness Allowance	..	8,000
Other Allowances	..	6,600
Travelling Allowance	..	3,000
	TOTAL	17,600
Other Charges—		
Contingencies	..	23,000
	TOTAL—ITEM (70)	50,600"

According to the extract Appendix-A appended to the affidavit (Ex. A.39) of Shri Prem Sagar, Deputy Director (Extension), the requirement per annum for 20% of whole area in respect of wheat, maize and paddy of superphosphate at that time was 19,204 tonnes. The doses were minimum as per Punjab Agricultural Hand Book. The figure pertained to three crops only. Superphosphate was also needed for horticultural crops, potato, ginger and vegetables. Taking the approximate requirement for all the crops, the annual target for the year 1968-69 was rightly laid down as 22,300 tonnes.

Shri Prem Sagar (C.W. 13) Deputy Director (Extension) stated that 10,000 acres of high yielding paddy crops were to be brought under cultivation under the scheme. Similarly, 15,000 acres of high-yielding wheat crop were to be brought under cultivation. That is why, according to the Deputy Director (Extension), so much quantity of superphosphate was required. According to him, during the years 1967-68 and 1968-69 fertilizers worth over Rs. 93 lakhs for each year were sold. This would indicate the consumption of fertilizers within the State. He stated, very emphatically that the target of 22,300 tonnes was fixed keeping regard to the annual plan of 1968-69. His statement is—

"My basis for placing the tender was entirely the plan and nothing else."

Dr. B.S. Jogi, Director (C.W. 14) gave a similar statement. When he looked up the papers he found that in the plan the figure of 22,300 tonnes was mentioned. That is how the tenders were invited for that much quantity. Sardar Pritam Singh, District Agriculture Officer (C.W. 16) stated that the boffer stocks were nil, and therefore, so much quantity of superphosphates was required. Shri R.N. Pal, Deputy Director, Soil Conservation (C.W. 18) stated that the valley area programme was mentioned in the budget and the same was finalized in December, 1967. However, this programme could not mature because the staff was not provided. He proved the extracts Exhibits A.91 and A.92 indicated above. Pt. Sukh Ram (C.W. 24) also stated that the quantity of 22,300 tonnes was based on the annual plan as that quantity was fixed therein.

As to the unpopularity of diammonium phosphate, ammonium phosphate and rock phosphate, there is a definite indication from the record. On January 17, 1967 (P.68, Vol. IV) a letter was received from the Government of India in which it was specified that the rock phosphate was to be popularised as there was reluctance in the farmers to use that fertilizers. Besides that, high cost was involved in grinding and converting the rock phosphate into a fine powder. As I shall presently disclose, Shri Prem Sagar (C.W. 13) the Deputy Director had already pointed out the un-economical expenditure which was likely to be incurred if a machinery was purchased for converting the rock phosphate into a fine powder. Besides the above noted letter, there is another letter of July 15, 1967 of the Government of India to the Director of Agriculture (P.118, Vol. IV) which indicates that insistence was for popularizing rock phosphate in place of superphosphate which was in acute shortage. The following passage is significant:—

"I shall, therefore, be grateful if you could kindly arrange for taking up the field tests in a comprehensive manner so that the feasibility of using the rock phosphate directly as fertilizer could be established".

The very fact that the rock phosphate was to be popularized indicates that it was unpopular with the farmers. The reply of the Secretary (Agriculture) to the Government of India is Ex.A.50 which is of January 22, 1967. It was written that there was no demand of rock phosphate from any of the Districts of Himachal Pradesh. The rates of superphosphate and rock phosphate were almost the same and as the former had shown its superiority over the latter hence it was not desirable to introduce the said fertilizer in Himachal Pradesh "without supporting experimental data."

This reply is again self-revealing. The Deputy Director (Extension) Shri Prem Sagar, wrote on February 14, 1967 (Ex. A.67, P.17-Vol. IV) that it was "not desirable to instal a big plant for the purpose of grinding till such time rock phosphate is located locally by the geologists." The Deputy Director also pointed out that his Department was not "in a sound footing in respect of recommending the use of rock phosphate on the basis of the experiments which are now proposed to be conducted in Himachal Pradesh". It will also be noticed from Ex. A.4 (material for discussion with the Estimate Committee on procurement and distribution of fertilizers—P.185) that the consumption of diammonium phosphate was much less as compared to superphosphate during the years 1966-67 to 1969-70. The following table will be

indicative of that fact:—

Year	Quantity sold (in tonnes)	Quantity sold (in tonnes)	Quantity sold (in tonnes)
	Superphosphate	Diammonium Phosphate	Rock Phosphate
1	2	3	4
1966-67	2,754	1,400	54
1967-68	1,726	106	198
1968-69	1,530	1,152	184
1969-70	2,002	520	183

The above-noted table must indicate the popularity of superphosphate, the spasmodic user of diammonium phosphate and the unpopularity of rock phosphate. Shri Prem Sagar (C.W. 13) stated that he had to issue a pamphlet in Hindi to popularize diammonium phosphate. In his opinion rock phosphate was not suitable for Himachal Pradesh. Machinery worth Rs. 1 lakh was required to powder the rock phosphate and that was very expensive in public interest. This is what this witness has stated. He further went on to say that as expected the consumption of rock phosphate was very poor in Himachal Pradesh. In his statement he gave out the above noted figures of consumption. The Commission has not reason to disregard the opinion of Shri Prem Sagar. Pt. Sukh Ram (C.W. 23) the Development Minister also stated that *dhura khad* which was the indigenous name for superphosphate was much in demand. The farmers were accustomed to its use and diammonium phosphate, was a new introduction. It was difficult for them to change their pattern of cultivation. Diammonium phosphate according to the Minister, required a lot of publicity. Similarly, stated the Minister, rock phosphate was also a new introduction. It was not popular with the farmers. With this evidence on the record, it is not difficult to hold that both the diammonium phosphate and rock phosphate were unpopular with the farmers.

Therefore, the Commission has no hesitation to hold that the target of 22,300 tonnes was taken from the annual plan (Ex. A.41) and due to single-zone system and drive for self sufficiency in food, a special valley area programme was proposed. For all that, the target of 22,300 tonnes was rightly fixed. The superphosphates were popular and hence no particular care was taken for the stock of complex fertilizers like diammonium phosphates or ammonium phosphates. There was, thus, no mala fide in fixing the target when the stock of superphosphate was no so much. There was hardly any necessity for ascertaining the stock position of diammonium phosphate and ammonium phosphate because that fertilizer was not popular with the farmers. In fact, uniformity was maintained throughout these years in the stock position of superphosphates.

Why reduced to 1,813 tonnes:

As the Commission has noticed that the target of 22,300 tonnes was reduced to 1,813 tonnes, a question arose as to what circumstances prevailed upon the Department for this reduction. Was it done with any ulterior motive or the reasons ascribed for such reduction were justified? According to the Department, the main reasons for the reduction of the quantity were:

(1) the stock position became known only in September, 1968 and so the actual purchase was made of only 1,600 tonnes out of 1,813 tonnes, (2) two of the quarters had already elapsed and so the demand naturally decreased, and (3) the valley area programme was subsequently given up and so much fertilizer was not required. In the alternative the Department also pleaded that taking into account the quantity of D.A.P. in stock in 1968-69 which was 6,465 tonnes (P.8 of Shri K.N. Channa's report dated 12-10-1970 Ex. A.6) coupled with the superphosphate purchased during that year, namely 1,600 tonnes, the total figure of 22,300 tonnes of superphosphates is reached. This is so because admittedly one tonne of D.A.P. is equal to 3 tonnes of superphosphates. The total quantity would exceed 20 thousand tonnes of superphosphates. This would be near about the target figure and from this point of view the quantity may not even be stated to have been reduced so as to call for any criticism of the Department. It can only be stated that although the tenders were invited for the supply of 22,300 tonnes, it was a rate contract, more or less, and whatever quantity was actually in demand was really purchased.

It was urged on behalf of Thakur Karam Singh the Finance Minister, that the Department was in a position to know about the stock position and that they should not have placed the target at 22,300 tonnes. For this the Minister relied on a letter issued by the Government of India on 1st March, 1967 (P.156, Vol. III). In this letter, in order to plan the import programme for the year 1968-69, the Central Government wanted certain information to be supplied. A proforma was attached to the letter and the requirement of fertilizers during the year 1968-69 was to be given on this proforma. Thakur Karam Singh presumes that the Department must have collected this information near about March, 1967 which in fact it does not appear to have done. There is a categorical statement of both Dr. B. S. Jogi and Shri Prem Sagar that the actual stock position could only be known on 16th September, 1968 (Ex. A.48). Shri Prem Sagar actually drew up a statement containing that requirement which was of 1,813 tonnes. This he obviously did considering the stock position of fertilizers for the period ending December, 1968 and the purpose was to make purchases accordingly. It is significant that the stock position with respect to Palampur was not even known upto that date. There can be no denying the fact that in Kangra area there was maximum consumption of fertilizers. The statement (Ex. A.48) proves beyond doubt that the stock position was not known to the Department before 16th September, 1968. When Shri Prem Sagar submitted his statement the office note was written on 28th September, 1968 that the total requirement for the year was 1,813 tonnes and the purchases could be made accordingly (Note 35-Vol. V). The following passage occurs in the explanation submitted by Shri Prem Sagar to the Chief Secretary (Ex. A.50):—

"The Deputy Director of Agriculture (Extension) had been taking care not to supply fertilizers to the Districts without getting their demand. As regards the requirement of 22,000 tonnes of superphosphates for the year 1968-69, it is submitted that this figure appeared in the targets laid for the whole year (1968-69) which were fixed much in advance and the despatch instructions were being issued on the basis of actual requirements obtained periodically from the Districts."

The statement indicates that the figure of 22,300 tonnes was mentioned as if a rate contract was to be

entered into with a firm asked to supply that much quantity. The real purpose was to place demand for the actual requirement and not for the whole quantity.

The following table (Appendix C) given in the affidavit by Shri Prem Sagar (C.W.13) is also self-revealing:—

APPENDIX C
STOCK, PROCUREMENT AND DISPOSAL OF
SUPERPHOSPHATE DURING THE YEAR 1966-67
TO 1969-70

(In tonnes)

Year	Balance on 1st April	Procurement including quantities un-accounted for earlier	Disposal	Balance on 31st March after excluding shortages
1966-67	2,980	3,320	2,754	3,516
1967-68	3,516	1,857	1,725	3,647
1968-69	3,647	1,680	1,530	3,771
1969-70	3,771	1,326	2,003	3,049

The indication is that almost uniformity was maintained in the balance on 31st March of the stock position of superphosphates. This would prove that extraordinary quantity was never purchased. A sort of equilibrium was maintained and care was taken that only so much fertilizer is in stock as needed by the farmers. This will certainly justify the purchase of 1,600 tonnes.

Now a word about the statement of witnesses in this regard. Shri K.N. Channa (C.W. 4) stated that the quantity was reduced to 1,813 tonnes and "that was a correct decision. This was done after assessment of the accumulated stocks". Shri K.S.K. Rao, Deputy Director (Soil Conservation) (C.W. 12) stated that they had recommended 22,000 tonnes in their first report but at the same time pointed out that proper arrangements were required for storage and also struck a note of caution that perhaps the entire quantity was not likely to be used upto the end of the year 1969. In fact the Department itself intended to purchase only that much quantity which was really needed. That is why no sooner the stock position was known that Shri Prem Sagar gave his statement of demand (Ex. A.48). Shri Prem Sagar (C.W.13) of course, very much reiterated the stand of the Department. He said that the information regarding stock was not available with them at the time the tenders were called and that the quantity was reduced to 1,813 tonnes in accordance with the district-wise requirement. According to Shri Prem Sagar (C.W. 13), upto 31st March, 1968 the balance stock of superphosphate was 3,647 tonnes. The potato sowing was to start from April and so they required this balance stock immediately for that sowing. Thus the stock position whatever it was on 31st March, 1968 was not to be accounted for and the quantity of 1,813 tonnes was correctly fixed. He further stated that no attention was paid to the quantity of the D.A.P. in stock and the insistence was to invite tenders for the purchase of superphosphate. Dr. B.S. Jogi the Director (C.W.14) actually pointed out that the stock position should be made known. In his opinion the purchase of 22,300 tonnes was on the higher side. Thakur Karam Singh (C.W. 23) however adhered to his view that the stock position was already available and that the Department intended to purchase much more than what was needed for the consumption. His main

contention has been that unless the stock position and the consumption during previous years were known, no order could be placed even for the purchase of 1,813 tonnes. The answer for this is simple. As the figures indicate the balance of superphosphates for any particular year was never permitted to go higher than the average. This is clear from the table given above. Apart from this, the Department was the supplier of fertilizers. The demand had to come from the farmers. Nearly every variety of fertilizer was required to be kept in stock and 1,700 depots were to be replenished. No one could compel the farmers to purchase diammonium phosphate or rock phosphate. They were free to demand any variety of fertilizers including superphosphates which were much too popular with them. Being governed with all this, the Department had every reason to keep up sufficient stocks of superphosphates. Pt. Sukh Ram (C.W. 24) gives his own views which are by no means in agreement, with the Finance Minister. He too reiterated that the stock position of fertilizers could only be known to the Department in September, 1968. He used to call for meetings with his officers. When the stock position was known on 16th September, 1968, the demand was curtailed to 1,813 tonnes. That was a very legitimate cut made by the Department.

As to the elapse of two quarters, the statements of Shri K.S.K. Rao (C.W. 12) and Shri Prem Sagar (C.W.13) may be looked into. The former stated that the urgency regarding purchase was felt on the grounds (1) that no purchase of superphosphate was made in the year 1968-69 during the first two quarters of that year, (2) that the Rabbi production programme of the Department had to start from early October for the high-yielding variety programme, and (3) that he had already had talks with the departmental officers during the course of his tours and the urgency was felt. That is how the order was placed for the purchase of 1,600 tonnes. Shri Prem Sagar, however, gave almost a similar statement. According to him two quarters from March to June and July to October were already lost to the Department. In fact, the targets used to be fixed at a much higher level and the actual purchases were always reduced. According to Shri Prem Sagar (C.W. 13) the target for the year 1966-67 was 5,000 tonnes but the actual purchase was of 3,154 tonnes. For the year 1967-68 the target was 17,000 tonnes but the quantity purchased was 1,828 tonnes. For the year 1968-69 the target was 22,300 tonnes but the quantity purchased was 1,667 tonnes. When two of the quarters had elapsed, the demand naturally decreased and the reduction was made.

Similarly there can be no denying that the valley area programme was given up. For this, the main reason was that the staff was not made available. This is what Shri Prem Sagar (C.W. 13) and Shri R.N. Pal (C.W. 18) have to state in this regard. Shri Prem Sagar pointed out page 3 of the plan Ex. A.41 and he stated about the requirement of fertilizer. He further stated that the scheme was abandoned and the reason was that proper staff was not provided. In Exs. A.91 and A.92 the staff position regarding valley area programme is given. Shri R.N. Pal (C.W. 18) stated that the valley area programme was sponsored by the Government of India, but ultimately it did not materialize because of administrative difficulties. According to the witness the scheme is already there, although it was not implemented at that time. Shri Prem Sagar (C.W. 13) was pointedly asked as to why so much quantity was intended to be purchased when the actual need was only of 1,813 tonnes. He replied that the purchase "was to be made according to the requirement and not on the basis of tender". This reply

indicates that the tenders were really rate contracts and not for the supply of entire quantity. The expected target of supply was, of course, specified in the notice inviting tender. Thakur Karam Singh (C.W. 23), however, conclude that there was a deliberate reduction of quantity for some ulterior motive. For this, there can be no reasonable explanation.

Conclusion:

In the opinion of the Commission, therefore, the following conclusions are irresistible:—

- (a) the target of 22,300 tonnes was essentially fixed after taking note of that figure in the annual plan of 1968-69 (Ex. A.41);
- (b) there was acute shortage of superphosphates and due to its popularity with the farmers the said fertilizer was preferred over diammonium phosphate and rock phosphate;
- (c) there was no mala-fide intention or ulterior motive in fixing the target of 22,300 tonnes. At the same time a little more thinking by the the Department was no doubt required to limit the quantity. Had the entire quantity of 22,300 tonnes been purchased, the Department would have faced so many problems of storage and waste of fertilizer. At any rate, the discretion may be stated to have been hurriedly exercised, although with bona fide intention of giving self-sufficiency to the State in the growing of food;
- (d) the quantity was reduced to 1,813 tonnes not with any ulterior motive but because the valley area programme failed, the stock position came to be known and two quarters already elapsed;
- (e) while purchasing 1,813 tonnes it was not primarily required to consider the stock position of diammonium phosphate or rock phosphate which were not in demand. The balance of superphosphate was almost uniform throughout these years. Moreover, the quantity was fixed upon the actual demand received from Districts, and
- (f) there could thus be every justification to purchase 1,600 tonnes of superphosphates during the years 1968 and 1969, notwithstanding the stock position of diammonium phosphate, ammonium phosphate or rock phosphate.

CHAPTER IV

SHIRIRAM FERTILIZERS (D.C.M.) PREFERRED TO JAISHRI CHEMICALS AND THE FERTILIZER CORPORATION OF INDIA (F.C.I.)

D.C.M.—Its dealings:

The issue No. 2, which I propose to deal at this stage deals with the purchase made from M/s Shriram Chemicals and Fertilizers (D.C.M.) to the exclusion of other suppliers namely Jaishri Chemicals and the Fertilizer Corporation of India (F.C.I.). In order to appreciate the question involved, one has to see the business relationship which had developed between the D.C.M. and the Government. In the matter of purchases to be made by the Government which is by all means its commercial activity, the Commission cannot lose sight of the circumstances attending to such purchases made in the past especially the satisfaction given to the Government as to the quality of material supplied, promptness with which the deal was attended to and absence of any default

committed by the supplying agency so that no loss was sustained by the Government. It can be stated verily and without contradiction that the experience of the D.C.M. was satisfactory and that is why the Department had no doubt a *bona fide* leaning towards that concern. In fact the dealings with the D.C.M. in the matter of the supply of fertilizers started as far back as in 1954. At that time the exclusive right of supply was enjoyed by the D.C.M. Similarly at present such an exclusive right is enjoyed by them. It is an admitted case on all hands. It is only during the intermediary stage, and within that stage is covered the disputed period that restrictions for inter-State movement of fertilizers were removed and that is how the tenders were invited in May, 1968 from various firms including the D.C.M. for the supply of fertilizers. It can admit of no doubt that M/s Shriram Chemicals and Fertilizers was a sister-concern of the D.C.M. which had actually submitted the sample and whose tender was accepted. Therefore, when we refer to D.C.M. we in fact refer to M/s Shriram Chemicals and Fertilizers. This is clear from Ex. A. 47 a letter dated September 28, 1968 written by Shri Prem Sagar to the Director of Agriculture. In that letter, he has mentioned that M/s D.C.M. Chemical Works, New Delhi in whose favour the tender was granted had transferred their rights to M/s Shriram Fertilizers and Chemicals, New Delhi and the actual supply was to be made by the latter firm. Apart from that, the oral statements of Dr. B. S. Jogi (C.W. 14) and Dr. Rajeshwar Kumar Gupta (C.W. 20) are also to the same effect. They have stated that M/s Shriram Fertilizers and Chemicals and D.C.M. are sister-concerns.

As to the dealings with the D.C.M. the supplies started from 1954. Apart from the statements of witness, reference may be made to a letter dated February 13, 1967 (Ex. A. 51) and the express telegram in reply thereto dated February 22, 1967 (Ex. A. 52). These documents do indicate that superphosphates were supplied by the D.C.M. in February, 1967 to the Himachal Pradesh Government. As to the oral statements, we can look up the statements of Shri Prem Sagar (C.W. 13), Dr. B.S. Jogi (C.W. 14), Dr. Rajeshwar Kumar Gupta (C.W. 20) and Pt. Sukh Ram (C.W. 24). According to Shri Prem Sagar (C.W. 13) who was essentially dealing with the purchases of fertilizer, the D.C.M. were supplying them from before he joined his duty in the Department. He became Deputy Director (Extension) in March, 1960 and since then he is dealing exclusively with the D.C.M. All throughout, according to the witness, there was no complaint as to the quality supplied and the promptness with which the stocks were replenished. The schedule of despatch was excellent unlike any other firm, especially the Blue Mountain with which they had a very sad experience. Dr. B. S. Jogi (C.W. 14) stated that at present the Government of India has introduced what he called "a Zonal system of purchase" and as such they are again dealing exclusively with the D.C.M. that is an approved firm for supplies to be made for Northern India. At present the Himachal Pradesh Government is getting the supplies either from the D.C.M. or from the Central Pool, and from no other concern. Dr. Rajeshwar Kumar Gupta (C.W. 20) is the Manager (Projects Division) of the D.C.M. Chemicals, Delhi. He stated that since 1954-55 they have been supplying superphosphates to the Himachal Pradesh Government. Pt. Sukh Ram the Minister (C.W. 24) also stated that "as far as he knows there are instructions from the Government of India that purchases of fertilizer should only be made from the D.C.M.". It is, therefore, abundantly clear that the D.C.M. alone was supplying the fertilizer from 1954 and since the

experience of the Department as regards the supplies made by them was more than satisfactory, there was a natural inclination to prefer the D.C.M. for which no exception can be taken.

Blue Mountains:

In this connection it was brought to the notice of the Commission that at one stage a certain supply of fertilizer was made by a firm known as Blue Mountain (Madras). The experience was deplorable. The stuff received was lying in heaps in the wagons. The packing arrangement was defective. The fertilizer had set in the shape of hard material and was unfit for use. There was also acute shortage. The Government ultimately suffered a huge loss. This was due to a long distance which the wagon containing the fertilizer bags had to cover, resulting in great delay in supply. The chemical process had set in and the bags corroded due to acid resulting in so much loss to the Government. This incident was very much before the eyes of the Department and they were naturally careful not to repeat the mistake. The D.C.M. was to supply from Delhi and comparatively lesser time was needed for completing the despatch upto its destination. As to the Blue Mountain experience, the statements of Shri Prem Sagar (C.W.13), Pt. Sukh Ram (C.W. 24) and Shri S.P. Jain (C.W. 8) may be referred to. It is undisputed that superphosphates is stored for a considerable period of time, especially when the packing material is defective, are likely to get spoiled. Shri P.S. Jhina (C.W. 6) who claimed to be expert on superphosphates and also produced before the Commission his Book (Ex.A:10) said to be written by him, reiterated the view that storage of superphosphates for a considerable period of time results in getting it hardened and as such the entire stuff becomes defective and may not be consumed. Shri S.P. Jain (C.W. 8) Assistant Director Agriculture (Headquarters) was there in the Department when supplies were made by the Blue Mountain (Madras) and stated that the fertilizer bags got corroded and the material got hardened and thus got spoiled due to defective packing and long distance which the consignment covered. Shri Prem Sagar (C.W. 13) the Deputy Director Agriculture (Extension) was also available at that time. He stated that it was he who had placed the order to the Madras firm. When the consignment reached Simla, the fertilizer was lying in heaps inside the wagons. All the bags were corroded. All this resulted in huge loss to the Government. As against that, no such complaint was received against the D.C.M. The F.C.I. was to supply from Kota (Rajasthan), while Jaishri Chemicals were to supply from Calcutta. Admittedly distance of Kota and Calcutta was far more as compared to Delhi, and that is why the D.C.M. was preferred. Pt Sukh Ram (C.W. 24) the Minister was naturally made aware of the difficulties experienced by the Department while the supply was made by the said Madras Firm. Being governed with that difficulty experienced by the Department, he might have agreed for the purchase to be made from the D.C.M. as the supplies were to come from a much shorter distance.

As to the preference said to be given to the D.C.M., a comparative study has to be made with Jaishri Chemicals and the F.C.I. Thakur Karam Singh the Finance Minister has pointedly attacked the purchases made from the D.C.M. by making a reference to these two firms as according to him it was more profitable and also economical if purchases were made from those two firms instead of the D.C.M. The Commission will

at present proceed to examine the case with reference to Jaishri Chemicals.

D.C.M. versus Jaishree Chemicals:

At the very outset it may be stated that the D.C.M. itself was not eager to supply 22,300 tonnes and it is they who struck a word of caution that the target fixed was ambitious, and perhaps the Government would not be able to consume so much quantity. If there was any mala-fide on the part of the D.C.M. and any illegal collaboration by them with the Department officer or the Minister, they would have been much eager to supply the entire quantity of 22,300 tonnes. The Commission cannot fail to notice the importance of the letter dated July, 3, 1968 (Ex. A.87) written by the D.C.M. to the Himachal Pradesh Government in that connection and also the statement of Dr. Rajeshwar Kumar Gupta (C.W. 20) Manager (Projects Division) of that firm. In their letter Ex.A.87 the D.C.M. wrote down that since 1954 or 1955 continuously, they have been supplying superphosphates to Himachal Pradesh to the exclusion of other firms and that the exception was made only for one year when 500 tonnes was supplied by a "a Madras party in which deal they (Government) have had a sad experience". In that letter the D.C.M. also mentioned:

"The tender quantity of 22,000 tonnes seems quite ambitious. Of course, we shall be happy to supply even this quantity if the State can take it."

It is obvious that the D.C.M. was pointing out the ambitious character of the offer of supply. They stated very much that the State Government was to re-consider the proposal and in case they could utilize the entire quantity the firm was willing to supply it. This would indicate that the D.C.M. was not out to any illegal again and was putting the Department to caution so that only that much quantity was purchased from them as required. This letter really absolves the D.C.M. from any responsibility. Further the latter disproves any illegal liaison between the D.C.M. and the officers of the Department.

Khad Programme:

It has been stated that the D.C.M. had proposed to pursue what they called "Khad Programme" and they were out to spend near about Rs. one lakh which they never did. Firstly, it has to be noted that the khad programme was not a part of the tender notice, and secondly, the D.C.M. did spend some amount in the Khad Programme although the figure is not easily available. The inference drawn by the Finance Department that the khad programme was not pursued and so the Government suffered on that account does not appear to be correct. The reason is that the khad programme was not a condition precedent for the supply of superphosphates by an particular firm. Shri K.S.K. Rao (C.W.12) stated that the D.C.M. had proposed to utilise a sum of Rs. one lakh in the State for popularising the use of superphosphates. According to him, the firm did not spend that much or even less in that project. But this statement is not adhered to by Shri Prem Sagar (C.W. 13) who was in a better position to know about the khad programme. According to him, some officials of the D.C.M. did come and meet him for that programme. They stated, that they were laying out some demonstration at Kandaghat. The witness remembered that he also prepared a note for the office in that connection. Dr. Rajeshwar Kumar Gupta (C.W.20) who belongs to the D.C.M.,

did state, about the "Shriram Khad Programme". According to him Himachal Pradesh was included in that programme. It was meant for propagation of the use of fertilizer, more specially the fertilizer manufactured by them. This programme was conducted in Himachal Pradesh. "Some amount was spent in it", although the witness was not in a position to tell the exact amount. According to him, M/s Grain Conservation Co., (Pvt.) Ltd., New Delhi were entrusted to undertake that programme on a contract basis. The D.C.M. had appointed that company to undertake the work. According to Dr. Rajeshwar Kumar Gupta, he was sure that the amount spent was more than Rs. 7,000 to 8,000. It has also to be considered that the demand was reduced from 22,300 tonnes to 1,813 tonnes and it would be fantastic to believe that the D.C.M. would have spent one lakh for the propagation of fertilizer when the demand was so much curtailed.

It was argued before the Commission that Shri Prem Sagar (C.W.13) had decided even in December, 1967 that the fertilizer should be supplied by the D.C.M. and not from any other firm. Thus before the very tenders were invited, the decision was taken by the Department to take the supply from the D.C.M. In that connection reference was made to a note written by Shri Prem Sagar on December 26, 1967 (Ex. A.60) wherein he mentioned that the D. C. M. Chemical Works, New Delhi were the suppliers of superphosphate and "since that firm has been requisitioned to meet our requirement, it is hardly necessary to obtain fertilizer from other sources." Despite this note of Shri Prem Sagar, a decision was taken in the Department vide notes 195 to 200 (File Vol. IV) that tenders would be invited from all firms and the purchase should not be confined to the D.C.M. Therefore, it is abundantly clear that no decision was in fact taken in favour of the D.C.M. and the mind was open until the tenders were invited and scrutinized by a committee. Shri Prem Sagar (C.W.13) was asked definite question regarding this prior decision made by him for taking supply from the D.C.M. He replied that the note Ex.A.60 was written by him with reference to a letter received from M/s. Dharamsi Morarji Chemical Co., Ltd., Bombay. It was actually this firm that had asked for preferential treatment in the matter of supply. The Deputy Director wrote down that their suppliers were the D.C.M. and not the said firm. In that connection he had written the note Ex.A.60. Thus it would be wrong to say that any decision prior to inviting tenders was taken in favour of the D.C.M.

Moisture and P2 05:

Finally we reach the stage when the committee met and scrutinized the tenders and submitted its report on August 1, 1968. In that report, both the D.C.M. and the Jaishri Chemicals were recommended with certain reservations. It was further pointed out that the quantity intended to be purchased was enormous and there might be difficulties for storage. It was even mentioned that actual requirement should be ascertained before the order of supply is placed. There was a controversy relating to the note written by Shri S.P. Jain, Assistant Director (Headquarters) and since the parties arrayed before the Commission have picked up that controversy which has a great bearing on the ultimate decision arrived at in favour of the D.C.M. I choose to take up that controversy in the first instance. The following dates need be noticed. The tenders were invited on May 8, 1968. The committee of departmental officers was appointed on May 30, 1968 to scrutinize

the tenders. The tenders were opened on May 31, 1968. Thereafter samples were invited from seven firms including the D.C.M. and the Jaishri Chemicals. This was done on June 4, 1968. Shri Kaura, Assistant Agriculture Chemist analysed the samples on July 3, 1968 and submitted his report which was as follows with reference to Jaishri Chemicals and the D.C.M.:—

Sl.No:	Name of the firm	Moisture	Percentage
4.	D.C.M. Ltd., New Delhi. (Sample dated 14-6-1968).	6.49	15.934
8.	M/s Jaishri Chemicals Fertilizers Ltd., Calcutta.	3.54	16.610

G. R. KAURA,
Assistant Agricultural Chemist,
Hathorn Villa, Simla-4.

The Committee submitted its report on August 1, 1968 and recommended the case both of the D.C.M. and Jaishri Chemicals. On August 3, 1968 the pointed note was written by Shri S.P. Jain, Assistant Director (Note 6 to 9—File Vol. V). The Assistant Director mentioned three things: (1) that there was more moisture content in the superphosphate fertilizer offered for supply by the D.C.M. as compared to Jaishri, (2) if rebate was the only consideration, some other firms had offered more rebate and those firms were not recommended by the committee, and (3) that the amount involved was very high and the case required consideration by a high power committee or the purchase was to be made through D.G.S.&D. This note was examined by Shri Prem Sagar on August 9, 1968 (Ex. A.55) and he differed from Shri Jain. He took into consideration three factors: (1) whether the firm was of good standing, (2) the nearness of the factory from Himachal Pradesh so as to obviate the loss during transit, and (3) whether superphosphate was available with the firm throughout the period as and when required by Himachal Pradesh. The Deputy Director emphasised the past experience of Blue Mountain (Madras) and discouraged the purchase of fertilizers from Jaishri which was a distant firm. Accordingly in his opinion the purchase was to be made from the D.C.M. for the reasons stated above.

It has to be understood that the price of superphosphate was fixed by the Fertilizer Association of India and therefore, there could be no difference in the matter of basic price and one firm was as good as the other merely on that count. The difference lay in the freight and other incidental charges. According to the calculations made by the Department vide paragraph 33 of the affidavit of Dr. B.S. Jogi the Director of Agriculture (Ex.A.69), the rate per tonne of superphosphate including the forwarding and handling charges as well as the freight for Jaishri Chemicals was Rs. 380.08, while for the D.C.M. it was Rs. 374.03. The following statement

makes the position clear:—

Sl.No.	Particulars	M/s Jaishree Chemicals Works Calcutta	M/s D.C.M. Chemical Works New Delhi
1.	Ex-factory rate per tonne. Rebate at the rate of Rs. 9% by M/s Jaishree and Rs. 20 per tonne by M/s D.C.M.	Rs. 344.48	363.03
		Rs. 31.00	20.03
		Rs. 313.48	343.03
2.	Forwarding and handling charges per tonne.	Rs. 4.80	4.00
3.	Freight charges for various destinations (average)	Rs. 61.80	27.00
	Total ..	Rs. 380.08	374.03

It is, therefore, clear that the rate of the D.C.M. was cheaper, but the Finance Minister has taken the exception similarly as Shri S. P. Jain the Assistant Director took at one stage (because later on he changed his opinion) that we were paying more for moisture and getting less of P2 05 which was a necessary ingredient, while accepting the offer of the D.C.M. The object of the Committee was not to accept the lowest tender. Rather the object was to ensure constant supply of fertilizer and for that nearness of the firm and its sound financial position was a *sine qua non* for all this coupled with the past experience of Blue Mountain, the scale tilted in favour of the D.C.M. From the report submitted by the Finance Minister (Ex. A.94) where he had taken great pains to expatiate the financial implication, by increasing or decreasing the moisture content in the two samples, so as to, increase or decrease the total weight of fertilizer with reference to P2 05 content in the two samples, the inference which he deduces is, that the Government would have saved Rs. 6,611 if the purchase was made from the Jaishree Chemicals and not from the D.C.M. In the opinion of the Commission, this is much too paltry a sum to be reckoned with when the purchase was made of so much quantity of fertilizer of the tune of more than Rs. 6 lakhs. If there was a slight error of judgement, which was bona fide and in public interest, where lies the dishonesty of the Department? The three important factors: the soundness of the firm, the nearness of the factory from where the supply was made, and the adherence of the firm to the prescribed despatch schedule, were by all means important factors to be considered. The Department took these factors into consideration and decided in favour of the D.C.M. The Commission is at a loss to understand how an exception can be taken to that decision.

It is much too clear that the sample of the D.C.M. fulfilled the prescribed standard laid down in the Fertilizer Control Order (Ex. A. 80) and that being so the superphosphate supplied by the D.C.M. could not be condemned as substandard. The witnesses Shri P. C. Thakur, Agricultural Chemist (C.W.5), Shri S. P. Jain, (C.W. 8), Shri K. S. K. Rao (C.W. 12) and Dr. B. S. Jogi, (C.W.14), have testified to this fact. Shri P. C. Thakur, Agricultural Chemist (C.W.5) stated that the committee was essentially concerned with the data laid down in the Fertilizer Control Order and that the sample of the

D.C.M. fulfilled this data. However, the witness also stated that the sample received from the Jaishree Chemicals was better than the sample received from the D.C.M. but the price quoted by the D.C.M. was lower and hence they preferred it. The statement of Shri P. S. Jhina (C.W.6) appears to be somewhat over-ambitious. According to him, the entire category of officers employed by the Department "were not qualified and most of them might not be possessing even basic grooming in chemistry". The witness in that manner challenged the correctness of the report of the agricultural analyst. It appears to the Commission that Shri Jhina has his own grievance against the Department. This is so depicted from his statement quoted below:—

"I was previously a Class-I Officer in Himachal Pradesh Agriculture Department. I was senior to Dr. Jogi and should have been appointed Director of Agriculture in place of Dr. Jogi. I did file a writ against that appointment and went upto Supreme Court. The Department entered into a compromise with me and wanted to reimburse my position. However, they did not do it subsequently. I resigned from the Department".

As such the statement of Shri Jhina has to be taken with a pinch of salt and perhaps a wholesale condemnation of the Department will not be justified. Shri S. P. Jain (C.W.8) stated that the variation in P2 05 upto the extent of 1% was permissible under the Fertilizer Control Order. Subsequently the witness gave up his previous stand and recommended the case of the D.C.M. when the report of the second committee was submitted on 23-9-1968. According to the witness, the minimum requirement of P2 05 was satisfied by the sample of the D.C.M. He further stated that besides that, there were other factors which justified their decision in favour of the D.C.M. Shri K. S. K. Rao (C.W. 12) stated that he was in a position to convince Shri Jain while they were sitting in the second committee and the latter changed his precious opinion. Therefore, whatever Shri Jain were wrote down in his note to dated August 3, 1968 was subsequently not adhered to by him. The following statement of Shri K. S. K. Rao (C.W. 12) as to the method evolved for chemical analysis of the two samples appears pertinent to the Commission:—

Oven dry Basis:

"If sample is taken for analysis in the air dry condition the analysis results are not exactly reproducible in a second analysis. This happens because the moisture content in a sample varies according to the content of moisture in the air. The moisture content will increase in humid weather and decrease in dry weather. Therefore, when we want to make an accurate comparison of the analytical figure the procedure in a laboratory is to convert the figures of analysis on air-dry basis into figures on oven dry basis, which means that the sample is dried for a period of 24 hours in an oven at a temperature of 105° Centigrade to ensure that all chances of moisture are eliminated. The figures of analysis reported by the Assistant Agricultural Chemist (Shri Kaura) were on the oven dry basis. The figure of moisture contained in the report of Shri Kaura were only for general information and it was incorrect to compare the basis of oven dry figure by once more bringing in the moisture content. During the analysis both the samples of D.C.M. and Jaishree were given the same treatment and the

contents were derived as a result of common analysis."

This process namely "oven dry basis" for determination of P2O5 no doubt gave the difference in that content in the two samples, but nevertheless eliminated the disadvantage in weight referable to the moisture content. Nonetheless the sample of the Jaishri Chemicals was better as admitted by Shri K.S.K. Rao (C.W. 12). However, the preference was given to the D.C.M. because of lower price and also because of other factors delineated above. Dr. B.S. Jogi the Director (C.W. 14) filed the Fertilizer Control Order and agreed that the sample of the D.C.M. satisfied the requirement of that Order.

Second Committee:

It has been pointed out to the Commission that on September 23, 1968 Dr. B.S. Jogi the Director desired the Development Minister to discuss and approve the case for the purchase to be made from the D.C.M. as a specific recommendation—was made by the second committee set up on that date. In fact the committee had given the report soon after it was set up. On the next day, i.e. on September 24, 1968, the Development Minister discussed and approved, and on September 25, 1968 Dr. Jogi demanded immediate action so that the supplies were made in time. On September 26, 1968 (Ex. A. 58) Dr. Jogi wrote to Shri Prem Sagar that the case should be moved for the purchase of 1813 tonnes of superphosphates from the D.C.M. and again the emphasis was made that this supply should be made in time. On September 27, 1968 they were willing to supply the reduced quantity at the agreed rates. An exception was taken for all this by saying that within a span of 2 to 3 days the entire deal was finalized no sooner the report of the second committee was obtained. In my opinion, nothing irregular, much less mala fide, can be inferred from this promptness shown in arriving at the decision. Already two quarters had elapsed for supply of fertilizers. It is manifest the need of fertilizers was not only for the Rabbi crop but also for the Kharif crop and immediate replenishment of stock was needed. The Commission has noted that in every departmental note and correspondence, specially of Dr. Jogi, it was emphasised that the need of fertilizer was acute and immediate steps were needed to enable quick supply. That was a reason why an apparently hasty action was taken. At the same time it cannot be pointed out that any irregularity was committed. Not can it be stated that any extra favour was shown to the D.C.M. Shri K.S.K. Rao (C.W. 12) who was the chairman of the two committee stated that no purchase of superphosphate was made during the first two quarters and that the Rabbi production programme was to start from early October for the high yielding variety programme. And that is why prompt action was taken. The witness further stated that there was urgent need and something had to be done immediately in July, 1968 he had on tour and the farmers met him and said that he was chairman of the committee but still he was not hurrying up with the submission of the report. This obviously referred to the first committee and the report was submitted by it after a lapse of considerable time. He was told by the Director that they should expedite and give a report on the very same day which they did. Finally he stated "the idea of urgency all along struck me and it was all along on our mind Shri Prem Sagar (C.W. 13) gave a similar statement. He was extremely keen to make purchases of fertilizers because they were in immediate demand". According to him the fertilizers were required before the sowing started and as such he was in a hurry to purchase them. Pt. Sukh

Ram (C.W. 24) also stated that the Rabbi sowing was to start from October and as such the fertilizers were in immediate demand. Therefore, in the opinion of the Commission nothing adverse can be inferred because the second committee met on September 23, 1968 and the deal was finalized in the Department on September 24, 1968 under the signatures of the Minister.

High Power Committee:

It was pointed out to the Commission that a high power committee existed and the case was required to be referred to that committee. In that connection it has to be noticed that no attempt was made by the Department to avoid reference to a high power committee. In fact in note 14 dated September 13, 1968 (File-Vol. V) Dr. B.S. Jogi himself noted that the case was to be put up before a higher power committee for recommendation. It was later on, when the demand was drastically cut down that a different view was taken that it was not necessary to refer the case to the high power committee. Nevertheless on September 23, 1968 Dr. B.S. Jogi wrote (Ex. A. 68) that even then the case was to be referred back to the same committee for fresh consideration. The demand was cut down and the concerned firms might not agree to their original terms. That is how the second committee was set up and its report (Ex. A. 14) was obtained. On September 28, 1968 Shri Prem Sagar wrote to the Director of Agriculture for the sanction of Rs. 4,60,405.00 the price of 1100 tonnes of superphosphates. It was *inter alia* mentioned:

"At this rate we can purchase only 1100 tonnes of superphosphate without submitting the case to High Power Committee. With a view to avoid submission of the case to High Power Committee, which is necessary in view of the shortage of time at our disposal, I am to request that sanction to incur an expenditure of Rs. 4,60,504.00 (Rs. Four Lakhs sixty-thousand four hundred and five only) as detailed below, may kindly be accorded to effect the purchase of 1100 tonnes superphosphate which is required for the supply to cultivators during the ensuing Rabbi Crop."

According to Shri Prem Sagar, he requested for the purchase of 1100 tonnes only because the price was reduced to less than Rs. Five lakhs which was the limit fixed for reference of any case to the high power committee. All this was done bona fide as the urgency was there and no time could be lost in the making of the purchase. The case would have naturally taken more time had it been pursued through the high power committee.

The Department has filed a copy of the letter No. Fin. 10-324/59-II, dated the 12th July, 1968 from the Secretary (Finance) to the Government of Himachal Pradesh to all the heads of Departments in Himachal Pradesh (Ex. A. 79) which pertains to the appointment of high power committee which is specified therein as advisory board. In the annexure of this letter, it is provided as given below:—

No.	Nature of power and reference to Rules/Orders etc.	Existing powers	Enhanced powers delegated	Remarks
1	2	3	5	4
1.	Indents, Contracts. Purchases. (C.F. Rules 13 of the D.F.P. Rules 1958)			

1	2	3	4	5
(i) ...				
(iii) Execution of negotiated or single tender contracts (other than purchases through the Central purchases Organisation covered by (i) (above).	5 lakhs	This power should be exercised after obtaining the recommendations of the supply Advisory Board as the case may be."		

It is manifest the present case was neither of execution of negotiated nor of a single tender contract. Besides that, it was of a value below Rs. 5 lakhs. Therefore, under the very terms of this letter which constituted the high power committee, a reference was not required. Shri Prem Sagar (CW. 13) stated that he did reduce the quantity to 1100 tonnes "to avoid a reference to high power committee". This he could legitimately do. The Deputy Director naturally did not understand the merit of the letter (Ex. A. 79) and thought by reducing the cost he would avoid reference to high power committee. He should have known that even if the cost was Rs. 5 lakhs or more, a reference to that committee or advisory board was not required. But from this nothing can be inferred against Shri Prem Sagar or his Department. Dr. B. S. Jogi (CW. 14) very much asserted that the present case of purchase was not covered under the notification which deals with the appointment of a high power committee. This was not a single tender contract as the quotations were invited from 28 firms. Therefore, the objection with reference to high power committee appears to be devoid of any merit.

A lukewarm argument was advanced that none of the quotations received was accompanied by security or a sample. It is no doubt correct that subsequently samples were demanded or invited from some of the firms. As to the security the position seems to be simple. Firstly, none of the firms gave the security and therefore the DCM could not be handicapped on that account. Secondly, when the quantity was considerably reduced the security of Rs. 10,000 was hardly required to be given. No lesser amount was specified, and if the security was not given the tender or quotation could not be disqualified. There was not even a condition in the tender for sample or security. It was only subsequently that the sample or security were to be furnished. Shri K. S. K. Rao (CW. 12) stated that the samples were not received from the firms because that was not the condition written in the contract. Pt. Sukh Ram (CW. 24) also stated that the quantity was reduced to 1100 tonnes and so the security was not demanded from the DCM. Thus no exception to the purchase can be taken because the security or sample were not furnished at the initial stage.

DCM versus FCI:

While the case was being dealt with in the Department in favour of the DCM, certain correspondence was made with the Fertilizer Corporation of India (FCI). Thakur Karam Singh has pointed out the importance of this correspondence. According to him the deal was

settled with the DCM with the avowed object of favouring that firm, resulting in a serious financial loss to the Government. In that connection two factors were pointed out: (1) that the FCI was a Government concern and should have been preferred, and (2) that the rates quoted by the FCI were the cheapest. The relevant dates between which the deal of the DCM was finalized are May, 1968 to the end of October, 1968. The sanction of the Lt. Governor was obtained for Rs. 4,60,405.00 on 1-11-1968. Between this period certain correspondence was exchanged between the Government and the FCI and the entire dispute hinges on this correspondence. It is significant, however, to note that in the Department all along there was a thinking in favour of the FCI and therefore it cannot be stated that the door was shut for them. It is a different matter that ultimately, for legitimate reasons, a decision was taken in favour of the DCM. If the purpose was to support the DCM out and out, perhaps it was not difficult for the Department to have ignored the correspondence, or at any rate there would have been a concensus amongst the officers in favour of the DCM and against the FCI. But the Commission finds just the contrary and several notes were exchanged from one officer to the other in support of or against the FCI. In fact the government machinery moves in that manner and independent views on a particular issue are expressed at one stage or the other. That is also necessary for getting a true perspective of the merits and demerits of a case. This is how the Secretariat functions, and that is so in the opinion of the Commission in public interest and also for the good of the Department. After going through the documents placed before it, the Commission has no hesitation to hold that free opinions were expressed in the instant case and merit and demerits were considered at the appropriate time. The decision arrived at, although in favour of the DCM, cannot be struck down as dishonest or *mala fide*.

The first letter which refers to the FCI is of August 9, 1968 (Ex. A. 35). This is a letter from Shri S. M. H. Burney of the Ministry of Food and Agriculture to Shri S. C. Jain, Development Commissioner and refers, for the first time, that the Fertilizer Corporation of India represented M/s Hindustan Zinc Ltd. (in marketing of its output) as the latter had already in hand 25 thousand tonnes of superphosphate ready for delivery. It was *inter alia* mentioned:

"As the Hindustan Zinc Ltd. is a public sector undertaking, it is incumbent on the Government agencies to help it in marketing of its production. I shall be grateful, if you could kindly give all necessary facilities to the representatives of the Fertilizer Corporation of India who will meet you for taking your orders."

Thus the letter indicated that M/s Hindustan Zinc Ltd. being a public sector undertaking was to be helped in the marketing of its product and that "necessary facilities" to its representative were to be given. Besides this the letter did not indicate anything. The Department had already invited tenders from the firms and the committee submitted its report on August 1, 1968 in favour of the DCM and the Jaishri Chemicals. The FCI was admittedly not one of the firms of which a list was sent to the Himachal Pradesh Government (Ex. A. 19). Therefore, the FCI was neither asked nor did they themselves submit their tender. Being out of picture so long was it easy for the Government to bring in the FCI in place of other contractual parties? That is a question which requires our consideration. A part from this, the letter

of Shri Burney neither indicated the specification regarding sample nor the rate at which the superphosphate was available. Merely on that letter, perhaps no action could be taken by the Government. However, on August 20, 1968 Shri S. C. Jain replied to Shri Burney that every facility would be given to the representative whenever he arrived and met the officers of the Department. Nothing further could possibly be done. When the FCI had not even sent its sample it was rather risky for the Department to have diverted their case in favour of the FCI right from the beginning. Their sample was analysed by Shri G. R. Kaura on October 20, 1968 and was found satisfactory. Shri Jain again wrote to the FCI on December 16, 1968 that their sample was approved. The witness stated that he did write that utmost accommodation should be shown to the FCI in view of Shri Burney's letter. The witness was Secretary (Agriculture) at the relevant period of time and if he wrote that every facility should be given to the FCI, there was certainly a thinking in the Department that the offer of the FCI should also receive its due consideration. In fact that was done. There was a race against time and a race against season. The approval of the Minister was already obtained on September 24, 1968 after the letter of Shri Burney was received. The case was sent to the Finance Department sometimes in the middle of October, 1968 and on October 17, 1968 the Finance Minister gave his concurrence. As such, if fresh negotiations were to be opened with the FCI, fresh delay was likely to occur, causing embarrassment to the Department and inconvenience to the farmers. Apart from that, once the tenders were invited and apparently the Government depended upon these firms in the matter of supply, it was against law and propriety to have ignored the claim of these firms and to have settled the deal in favour of a party which did not even submit a tender. Several legal complications were likely to arise. The Commission appreciates, that the officers of the Department, not well conversant with law, were only guided by considerations in furtherance of smooth supply of fertilizers. That was also in public interest. They were not well-versed in legal complications. As prudent officers, the minimum they could conclude was that once tenders were finalized in favour of a certain firm, it was difficult for them to wriggle out of the contract. If they did not do so, their intention cannot be considered *mala fide*, even though on a strict interpretation of law any particular firm could be ignored and the FCI substituted at that late stage. Shri K. S. K. Rao (CW. 12) being chairman of the committee was faced with such a situation. He stated that it was already end of September and Rabi sowing had started. They were in urgent need of superphosphates. The Department concentrated on making quick purchases. The case was already at an advanced stage in favour of the DCM. Shri Prem Sagar the Deputy Director (CW. 13) has a similar statement to make. According to him the wheat sowing starts by the first week of October although the schedule is pushed ahead in places of higher altitudes. The fertilizers are always required before sowing. The Department was in a hurry so that adequate quantity was available to the farmers. He stated that the FCI was not mentioned in the list given to the Himachal Pradesh Government and that is why tenders were not invited from them. Dr. B. S. Jogi the Director (CW. 14) stated that the sowing time was approaching fast and there was not alternative left but to get the supplies from the DCM.

The points in favour of the DCM were: the nearness of their factory, its capacity to supply, its soundness in business dealings, coupled with the past experience

with that firm. Shri K. N. Channa, IAS, the Chief Secretary (CW. 4) has reiterated this stand. While accepting the tenders, said Shri Channa, the standing of the firm, its capacity to supply all the year round and the location of the factory were to be considered. Shri P. C. Thakur (CW. 5) who was a member of the committee gave a similar statement. Shri S. P. Jain (CW. 8) was a member of the second committee and he stated that the Jaishri Chemicals were to supply from Calcutta and M/s Hindustan Zinc Ltd. were to supply from Debari (Rajasthan). These were distant places. However, it was pointed out in support of the FCI that they could have managed to supply from Nangal or some such place. At any rate, nothing was definite in August or September, 1968. Even the sample was not received and analysed upto that time. Shri Prem Sagar (CW. 13) stated that three factors weighted with him when he recommended the DCM: the nearest of the factory, its standing and the availability of the stock with the firm whenever the same was needed. Besides, the Development Minister also approved it. According to this witness the FCI was in fact supplying from Debari (Rajasthan) and not from Nangal. Debari is on a metre-gauge railway and so transhipment problem was there. During transhipment the fertilizer bags were likely to be damaged. The past experience of the Department, according to the witness, when they purchased from the Blue Mountain (Madras) was appalling and therefore they could not bear so much damage during transit. On the other hand the past experience with the DCM was good and no damage or shortage during transit was ever detected. In the opinion of the Commission, the Deputy Director was justified in giving preference to the DCM over the FCI or the Jaishri Chemicals. Dr. B. S. Jogi the Director (CW. 14) also stated that the FCI were to supply fertilizers from Kota (Rajasthan) and not from Nangal. At any rate their factory was not near as compared to that of the DCM. Dr. Jogi also emphasised that the nearness of the factory and the soundness of the firm were the factors in favour of the DCM. Pt. Sukh Ram (CW. 24) also stated that they were in a hurry to purchase fertilizers for Rabi season. The Minister referred to the business dealings which his Department used to have in the past with other firms while purchasing fertilizers. The contractual obligation was to be honoured and "the credibility of the Government was at stake". In the opinion of the Minister it was not easy to ignore the claim of other firms. After all it was a competitive business and the FCI could not be preferred after throwing to winds all business canons and conventions. To the knowledge of the Minister, the FCI were not keeping up regular supplies. That is why for the present the instructions of the Government of India are, that the entire purchase should be made from the DCM. The statement of the Minister is thus more emphatic, and the only logical inference to which the Commission can reach is that the case could not be re-opened in favour of the FCI at that late stage.

At this stage a little review need be made as to the actual correspondence that was exchanged between the FCI and the Government. This would indicate the efforts made by them to intervene although at a much late stage, the thinking made in the Department in favour of or against them and the final decision arrived at in favour of the DCM. Could they be permitted to re-open the case even from legal point of view? Certainly not when the deal was finalized in favour of the DCM. If it was not finalized, at least it was about to be finalized and decisions at every relevant stage were taken to that effect. The DCM came to know that the Government

had accepted their tender and the price was settled. Perhaps a serious case of claim for damages could be made out in their favour. There was no legal requirement that a Government firm was to be preferred at any cost, even after advanced stage of negotiation with any private firm. The FCI was not on rate contract with the DGS & D. As such a laborious process was required to settle rates and freight etc. with them. It was risky to cut up suddenly with the other firms and to establish negotiation with the FCI without their sample being received or analysed. In point of law, no tender could be received after the date had expired, much less accepted. The Government had already rejected a few tenders which were received by telegram, for the simple reason, that these were open tenders and conditions laid down were not followed. How could these conditions be disregarded simply because Shri Burney wrote down a letter or subsequently the FCI sent a few telegrams to the Department? It was stated that the quantity was reduced and therefore in the eye of law no tender existed. There is a flaw in the reasoning. As I have pointed out, the negotiations were well advanced in favour of the DCM. The departmental decision was taken. The approval of the Minister was there and the case was submitted to the Finance. It was too late in the day to say that neither any tender existed nor any contract was in the offering. In the opinion of the Commission, the FCI came on the scene much late and also in a halting manner. There was no obligation on the Government to accept their deal at a late stage. At any rate, the minister or his officers in the Department were justified to evolve in their mind that the deal was finalized with the DCM and there was no occasion for a decision in favour of the FCI.

If we look up the documents date-wise, the first telegram of the FCI, after Burney's letter, was received on October 11, 1968 (Ex. A. 29): In that telegram they wrote that the FCI could offer 10,000 tonnes superphosphate on attractive terms. They requested for "postponement" of finalization of the purchase. Was this postponement possible when there was such a hurry to make the purchase? Neither any rate was quoted nor any sample was sent. The offer was only in the air upto that stage. On October 14, 1968 one telegram and one letter were received from the DCM. In their letter (Ex. A. 61) the DCM agreed to ad here to the rate and the rebate even if lesser quantity was required by the Government. In this manner, they had accepted the terms offered by the Government and the deal was closed. In their telegram of that date (Ex. A. 56) they mentioned that "the promised order for two thousand tonnes superphosphates" should be sent. They had already reserved the stock for the Government. This could indicate that the Department was in correspondence with them and they were given an assurance that the purchases would be made from that firm. This would again indicate that the deal with the DCM was at the final stage. The FCI however, sent another telegram on October 14, 1968 (Ex. A. 31). In that telegram they wrote that their representative would visit Simla on 16th October, 1968 and he would have discussions with the Development Commissioner. Again the telegram neither indicated the rates nor anything about the sample of fertilizer. For the first time on October 22, 1968 (Ex. A. 53) that a savingram was received from the FCI in which the rate was quoted and it was specified that they were prepared to supply quantity between one thousand and five thousand tonnes. This offer was, however, withdrawn by them by another telegram of October 26, 1968 (Ex. A. 37) which may be quoted in extenso as it is of some importance:

"Can offer at this price five thousand tonnes or more as required. Request an order for five thousand tonnes at least for supply current year."

The Department naturally inferred that the FCI was prepared to supply not less than five thousand tonnes at the rate quoted. The requirement was only of 1813 tonnes and not of 5,000 tonnes. Their previous telegram indicated that they could supply even upto one thousand tonnes. The subsequent telegram decidedly cut through the deal and the price quoted was meant for five thousand tonnes or more. An argument could certainly be built in favour of the Department from all this, which is to the effect that the FCI was not prepared to supply a quantity less than five thousand tonnes at the rate quoted by them. The Department naturally gave up the FCI and turned its attention towards the DCM. Thakur Karam Singh has a grievance that the Department could perhaps pursue the matter further with the FCI and somehow they could bring them down and agree to a quantity less than five thousand tonnes. Where was the time and the necessity for such a negotiation? The Finance Minister forgets that the case was already concurred by him on October 17, 1968 and there was a legitimate hurry for making the purchase. The fresh negotiations could not be re-opened with the FCI because the deal was shut in favour of the DCM. The Government would have been involved in a legal dispute had the DCM taken up the issue to a court of law. From all this it is not difficult to infer that the FCI was rightly ignored.

Shri K.N. Channa, I.A.S, the Chief Secretary (C.W.4) in that connection stated that the re-opening of the case in favour of the F.C.I. would have certainly "necessitated the calling of fresh tenders". In his opinion special privilege could not be given to any public sector undertaking. That would have certainly delayed the finalization of the purchase. According to Shri Channa, the purpose for which the fertilizer was being purchased would have even been defeated. The Chief Secretary was not an officer of that Department and he was made to give his comment on the case at a very late stage when the objection was raised by Thakur Karam Singh. The Commission entirely agrees with the view expressed by him. Shri S. P. Jain (C.W.8) similarly stated that they could not re-open negotiations with the F.C.I. at that late stage. In fact, according to the witness, the F.C.I. appeared on the scene "so late that they could not re-open the deal with them". The witness further stated that this difficulty was the main cause why they purchased from the D.C.M. Shri S.C. Jain (C.W. 11), however, stated upon seeing his letter dated December 16, 1968 which he sent to the F.C.I. approving their sample, that he could say that the question was still open "but it was for the administrative department to consider as to whether the rates were favourable or not". This is entirely a faulty statement made by the witness. How could the deal be left pending upto December 16, 1968 when even the approval of the Lieutenant Governor was obtained on November 1, 1968? Shri Prem Sagar the Deputy Director (C.W. 13) similarly stated that had they decided in favour of the F.C.I. they would have cancelled all the previous tenders and called for fresh tenders which was not possible in the circumstances. Dr. B.S. Jogi the Director (C.W. 14) stated that in his opinion the deal was finalized in favour of the D.C.M. and so the case could not be re-opened in favour of the F.C.I. Pt. Sukh Ram the Minister (C.W. 24) stated that tenders are not invited only from such firms which are on rate contract with the D.G.S. & D. The F.C.I. is not on rate contract with the D.G.S. & D. The name of that firm

was not even mentioned in the list proved by the Government.

With this evidence on record the Commission cannot but arrive at the inference that the F.C.I. did not care to come on the scene at an early date and the deal was already finalized in favour of the D.C.M. Fresh negotiations as such could not be opened in favour of the F.C.I. After Shri Burney wrote his letter on August 9, 1968, the F.C.I. slept over the matter for more than two months and appeared on the scene for the first time on October 11, 1968. What were they doing during this period if they were really serious in their contract for supply? Shri K.N. Channa (C.W. 4) is also of the opinion that the offer made by the F.C.I. on October 22, 1968 (Ex.A. 35) as well as on October 26, 1968 (Ex.A. 37) was conditional and the Department could very well finalize the deal with the D.C.M. Dr. B.S. Jogi (C.W.14) who is the Director, understood the telegram of the F.C.I. dated October 26, 1968 as indicating that they were prepared to supply at least five thousand tonnes at that rate and not less than that quantity. Thus the Department could legitimately ignore the claim of the F.C.I.

The Finance Department also took exception of the deal by saying that the D.C.M. were given an assurance even before the case was sanctioned in their favour and that they even commenced supply before the order was placed with them. As to the assurance, the documents reveal that the two committees had decided in their favour and the final selection was made on September 23, 1968. The Finance Minister gave his concurrence on October 17, 1968. The case was submitted to the Lieutenant Governor whose sanction arrived on November 1, 1968. All this information must have reached the D.C.M. and if they wrote that the "agreed supply" was awaited by them or some communication was sent to supply 22 tonnes urgently to Mandi out of 1100 tonnes, where lay the fault or surprise in the dealing? It is certainly wrong to infer that even the supplies were commenced before the orders were conveyed to the D.C.M.

In this connection the Commission was referred to certain dates which are material, on October 31, 1968 (Ex. A. 105) Dr. B.S. Jogi, the Director wrote to Shri Prem Sagar the Deputy Director, that an offer was received from the F.C.I. and at the same time the correspondence was going on with the D.C.M. The Deputy Director was asked to give his comments "within two days" from the receipt of the letter, so that the deal could be finalized. This letter will indicate that no attempt was made to suppress the claim of the F.C.I. The Director asked for comments with the avowed object of thrashing out the case on merit. On November 1, 1968 the Lieutenant Governor gave his sanction for which the case was already moved and was pending before him. On the same day Shri Prem Sagar gave his comments (Ex.A.15) to the Director in response to his letter dated October 31, 1968. He considered the case on merit, both of the D.C.M. and the F.C.I., and solicited the opinion of the Director in the following terms:

"Keeping in view the above, definite orders regarding disposing of the savingram of the Fertilizer Corporation of India Ltd., Naya Nangal (Punjab) a copy of which has been received by you, may kindly be given. If approved, we may issue separate order for further supply of superphosphate to the Fertilizer Corporation of India Ltd., Naya Nangal

(Punjab)."

Shri Prem Sagar further mentioned in that letter that the despatch instructions for 1100 tonnes of superphosphate were being issued by the Director to the D.C.M. On the margin of this letter (Ex. A. 15) Shri Jain the Assistant Director, wrote that perhaps the entire quantity of 1800 tonnes could be purchased from the F.C.I. considering their favourable terms. All this definitely indicates that the thinking in the Department was also in favour of the F.C.I. and it would be wrong to say that their documents were suppressed and the case of the F.C.I. was not considered on merit. However, the despatch instructions were issued by the Director in favour of the D.C.M. (Ex. A. 82) on 1/2-11-1968.

A capital was made out of the letter dated November 7, 1968 (Ex. A.59) received from the D.C.M. in which a reference was made to a telephonic message conveyed to them on October 31, 1968 indicating that they had "already booked this order" and prepared a sale note dated November 2, 1968 which was being enclosed. The despatch of 22 tonnes of superphosphate to Mandi was also mentioned in that letter. When the Lieutenant Governor had sanctioned the case, where was the fault if a telephonic message was conveyed to the D.C.M.? After all the Department was in immediate need of superphosphates 22 tonnes were urgently needed for Mandi district. In that connection a telephonic message might have been conveyed. Thakur Karam Singh pointed out that no message could have been conveyed on 31st October, 1968 when the Lieutenant Governor could sanction only on November 1, 1968. In the opinion of the Commission, such a strict view cannot be taken in regard to the situation. The sanction of the Lieutenant Governor was a formality, although not an idle one, in the set up of the Union territory. Nonetheless the concurrences of the administrative Department as well as of the Finance Department were already in hand and the case was pending with the Lieutenant Governor. Keeping regard to this situation someone might have informed the D.C.M. that 22 tonnes were needed for Mandi and that they had finalized their deal for supply of 1813 tonnes.

Shri Prem Sagar (C.W. 13) stated that on his letter dated November 1, 1968 Shri S.P. Jain did write that "we should make all the purchases from the D.C.M.". However, the case was not discussed with him and the deal was finalized with the D.C.M. Shri Prem Sagar, however, admitted that he might have mentioned the matter to the representative of the D.C.M. as indicated in their letter dated November 7, 1968. Dr. B. S. Jogi (C.W. 14) admitted that Shri Prem Sagar wanted his definite instructions as to whether the purchase was to be made from the D.C.M. or the F.C.I. This was indicated by his letter dated November 1, 1968 (Ex. A. 15). The witness received the comments of Shri Prem Sagar on November 2, 1968 (Ex. A.15) but by that time the sanction of the Lieutenant Governor was also received. Dr. Jogi clearly stated that he considered that there was nothing wrong if the order was placed with the D.C.M. He further stated that it is very common in such cases that the firms contact the party concerned. Accordingly the D.C.M. contacted the Department. They must have been informed on telephone that their case was already sanctioned by the Lieutenant Governor and they should despatch 22 tonnes immediately for Mandi. There was urgent need of superphosphate at Mandi and so the demand was placed for that District. Dr. Rajeshwar Kumar Gupta (C.W. 20) also reiterated

that there was urgency for supply at Mandi district and therefore, the D.C.M. sent 22 tonnes for that District. According to the witness the telephonic message mentioned in the letter of the D.C.M. dated November 7, 1968 was received on October 31, 1968 from Dr. B.S. Jogi. The witness no doubt further stated that they had booked the sale on the record, which did not mean that they had actually despatched the consignment on October 31, 1968 or even on November 1 or 2, 1968. Until wagons were allotted, the despatch of the goods could not commence.

Special Rebate:

It was incidentally pointed out before the Commission that a special rebate of Rs. 7 per tonne offered by the D.C.M. was ignored. In that connection, reference was made to a letter of the D.C.M. dated July 3, 1968 (Ex. A.34). But in this letter a condition to the special rebate was attached, namely that the supplies be obtained by the Department before September 30, 1958. That was not possible because the final sanction of the Lieutenant Governor was obtained on November 1, 1968. As such this special rebate could not possibly be gained by the Department. Shri K.S.K. Rao (C.W. 12) also reiterated that position.

Railway freight:

The Commission was shown the tender submitted by the D.C.M. (Ex.A. 102) and in that tender, against railway freight it was specified that the average railway freight from Delhi to the 16 destinations given to them by the Government worked out at Rs. 26.77 per metric tonne (gross). However, it was indicated in the final sanction obtained by the Department (Ex.A. 100) that average forwarding and incidental charges from ex-factory to the nearest railway head or out-agency in Himachal Pradesh were Rs. 85 per tonne on 1100 tonnes. Upon this, an argument was built that while the D.C.M. was paid at the rate of Rs. 26.77 per tonne, the Department obtained sanction for Rs. 85 per tonne and the difference was to be accounted for. For the transfer of fertilizer within the State, according to the Finance Minister, a claim for subsidy was made out in the Department. He referred to Ex.A. 101 in that connection. It has to be understood that the letter Ex.A.101 does not specifically refer to the superphosphate supply by the D.C.M. A case for subsidy might have been sponsored by the Department. But nothing definite can be inferred so that it could be stated that out of the sum sanctioned at the rate of Rs. 85 per tonne, any amount was misappropriated in the Department. Pt. Sukh Ram (C.W. 24) the Minister was shown the letter Ex.A.47 which was issued by the Department for sanction of Rs. 4,60,405.00 for the purchase of 1100 tonnes and the letter pertaining to subsidy (Ex.A.101) issued by the Department on October 9, 1968. In the sanction letter, the freight was shown at Rs. 85 per tonne while in the subsidy letter it was shown as Rs. 57 per tonne. I have already explained above that the subsidy letter does not merely pertain to the deal in dispute. A general case for subsidy was prepared for the Department. No one could testify as to whether this case was finalized or as to whether any amount was sanctioned and if so, to what extent the same was utilized. Therefore, the subsidy letter does not lead to any definite conclusion. The Minister, however, pointed out that besides the freight specified by the D.C.M., some more expenses were likely to be incurred for the transfer of superphosphate to the interior depots. That may account for the rate of Rs. 85 per tonne fixed

for freight. Unless that amount was sanctioned by the Lieutenant Governor, no part of it could be spent in the freight. It was not required that the entire amount should have been paid to the D.C.M. Rather they must have been paid according to their contractual rate. The Minister replied and said that he "does not think if the D.C.M. was paid at the rate of Rs. 85 per tonne". The Department itself must have defrayed the other expenses for movement of fertilizer from the rail-head or the out-agency head to the interior. It was at any rate wrong to say, as the Minister urged, that so much Freight was paid to the D.C.M. In fact the freight was never paid to the D.C.M. but it was paid to the Railway or the common carrier and the amount included the handling charges.

According to Thakur Karam Singh, the Department had already delayed the purchase from one step to the other. The tenders were received in May, 1968 and the final sanction of the Lieutenant Governor could be obtained only on November 1, 1968. From this he inferred that casual steps were taken and there was, in fact, no urgency as to time or even as to requirement of fertilizer. In the opinion of the Commission, the comment is unjustified. The first committee could finalize its report only upto August 1, 1968. Thereafter about two months were taken by the Department to complete the deal and that was not too much time so as to be wasted. The case was to be referred first to the Minister of Agriculture and thereafter to the Department of Finance. In that Department again it was examined at every level and at every level and through the Deputy Secretary (Finance) as well as the Secretary (Finance) it came to the Finance Minister who could give his concurrence only on October 17, 1968. Thereafter some time was taken by the Lieutenant Governor to give his sanction. It cannot, therefore, be stated that the case moved with a snail's pace or that the urgency of the matter was never felt by the Department. Rather all the witnesses of the Department say with one voice that there was a race against time and a race against season. Besides this, there was a great demand by the farmers. In the opinion of the Commission, therefore, this part of the criticism will not be justified.

The up-shot of all that I have stated above is that the deal in favour of the D.C.M. was justified and the purchase of 1100 tonnes was rightly made from them. There is no indication that any preference whatsoever was shown to the D.C.M. in that connection.

Second purchase 500 tonnes:

The other fact of the argument in that connection, with which the Commission is concerned, relates to the second purchase of 500 tonnes of superphosphates from the D.C.M. The Finance Minister lashed out a scathing criticism that this second purchase was definitely made to favour the D.C.M. *prima facie* he could sustain the argument because so much is now stated by the Finance against the previous purchase of 1100 tonnes that in that background the subsequent purchase appears to be manifestly incorrect. But all this would be an *arm-chair* thinking. The Department was never faced with all these considerations and they were even justified to make the purchase from the D.C.M. in the first instance. What appears to be an innocent step at that stage has been subsequently branded as a suspicious circumstance, by raking up pleas, which are mere deductions from a given situation. Had the Department been made aware at that stage, of these criticisms subsequently raised against it, perhaps it would have taken more sagacious

steps and could have even avoided a possibility of criticism. Events occur and they take their natural turn according to situations and even innocent mistakes are committed in the procedure that is followed. Subsequently arm-chair thinking is done and events are reckoned with a certain amount of prejudice, with the result, that what was really innocent before, appears to be culpable at a later stage. Notwithstanding, the people who were incharge of the previous events cannot be branded as dishonest or guilty of improper behaviour. Exactly the same thing has happened in the present case. If one places himself in the position of any officer of the Department who was put in-charge of this business and he carried out the deal of 1100 tonnes, the subsequent deal of 400 tonnes was a logical event to follow. The decision taken by such officer while he made the purchase of 1100 tonnes could not be viewed by him with that meticulous care, as if the criticism about the deal invented at a subsequent stage was known to him. Because otherwise he would have taken some extra-precaution and perhaps the deal which was approved by the Finance Department at the prior stage could not have suffered, at a later stage, their scathing criticism leading to the setting up of the Commission. The Commission is compelled to view the functioning in the Department as if it was its watch-dog at the appropriate time. To arrive at a criticism at this stage will only be an arm-chair thinking. There is even a danger of arriving at an incorrect finding.

Rebate:

When the question arose for the second purchase of 500 tonnes, the Department officers were naturally inclined "in favour of the F.C.I." and had at one stage taken a definite decision in favour of that firm. Later on it was pointed out that difficulty regarding rebate will arise and the Government will suffer a loss on that account. This tilted the balance in favour of the D.C.M. and once again the purchase was made from them. The Finance Department did not say a word and gave the concurrence. It was only when the case was sent to them for revised sanction, and till then much water had flown under the bridge on the political area, that Shri Mithan Lal was aroused and wisdom appears to have dawned upon him. Had the Finance taken care to point out the correct thing at the proper time, perhaps so much waste of public money and time due to this enquiry could have been avoided. The Commission will now proceed to meet the charges in respect of the second deal of 500 tonnes.

As I have pointed out, there was absolutely no attempt to suppress the deal of the F.C.I. Their case was all along considered on merit. The events as they happened chronologically may be noticed.

On November 2, 1968 (Notes 73 and 74-Vol.V) the case of the F.C.I. was discussed in the Department. It was pointed-out that the Government would be losing at the rate of Rs. 41.71 per tonne in case the purchase was made from the D.C.M. and not from the F.C.I. Keeping regard to that loss, the case of the F.C.I. was recommended. Shri Jain the Assistant Director recommended the case of the F.C.I. on November 4, 1968 saying "in future purchases will be effected from the F.C.I. Nangal". On November 12, 1968 Dr. B.S. Jogi wrote (Note 77-Vol. V) that according to his information the stocks of superphosphates manufactured by the Hindustan Zinc Ltd., were quite old and the Rajasthan Government did not lift the stock. Later on the Hindustan Zinc appointed F.C.I. as their agent. They should be asked to send their sample for analysis. On December 23, 1968 the F.C.I. quoted their rates at Rs. 292 per tonne and on December 26/27, 1968, one Shri R.N. Warriar of the Government of India wrote to Shri S.C. Jain, Secretary (Agriculture) that the supplies were to come from Debari (Rajasthan) and that preference should be given to the Hindustan Zinc Ltd., which was the concern of the F.C.I. On December 27, 1968 Shri Prem Sagar wrote to the Director (Ex.A.62) that clear instructions should be sent as to which of the firms, D.C.M. or the F.C.I., was to be preferred. He pointed out that the demand of superphosphate was pouring in from districts. The quantity of 500 tonnes was required for Mahasu and Simla districts (presumably, for potato crop) and that the order of 1100 tonnes was placed with the D.C.M. who have written in their letter dated October 14, 1968 (Ex. A.61) that they were prepared to allow the rebate of Rs. 15 per tonne only, if the entire requirement of superphosphate for the whole of the year was supplied by them in other words, if the supply of the remaining 500 tonnes was not taken from the D.C.M., they were not prepared to give the rebate of Rs. 15 per tonne. Shri Prem Sagar accordingly pointed out in his letter to the Director, the difficulty regarding the rebate. He further stated in his letter that the F.C.I. were not in the picture at the earlier occasion and the tenders were invited which were scrutinized and the D.C.M. was preferred. On January 8, 1969 one Shri P.V. Shenoi of the Ministry of Food and Agriculture wrote a letter to Shri Bhagwati Saran Singh, Secretary (Agriculture) (pages 127-129 of Vol. V) referring therein Burney's letter and soliciting the case of the F.C.I. for supply of superphosphates. In the annexure of that letter, the rate of Rs. 292 per tonne was quoted F.O.R. Debari. On January 28, 1969 another letter was received from the D.C.M. (Ex.A.85) in which they made it clear that the rebate of Rs. 15 per tonne "will be allowed after the close of the year, i.e. 31st March, 1968. This, of course, is subject to your buying the entire requirement of superphosphate from us during the current year". This had really clinched the issue. The Government was to suffer rebate at the rate of Rs. 15 per tonne for the quantity of 1100 tonnes in case the remaining quantity of 500 tonnes was not taken from the D.C.M. This letter set in a thinking in the Department. Still on February 3, 1969 Dr. B.S. Jogi the Director decided that the remaining quantity of 500 tonnes of superphosphate be purchased from the F.C.I. because their rates were the lowest (Ex.A.63). On February 6, 1969 Shri Prem Lal Gupta, Assistant in the Secretariat (C.W.21) wrote his note dealing with the letter of the D.C.M. (Ex.A.85) wherein the rebate was denied, and he expressed his opinion that since the previous approval in favour of the D.C.M. was given by the Development Minister, he should again be approached to review his decision in favour of the F.C.I. Dr. B.S. Jogi, naturally agreed with this suggestion, and asked Shri Gupta to write a detailed note showing the difference in the prices payable to the respective firms. Shri Gupta, however, pointed out that by making the purchase from the F.C.I. they would be saving a sum of Rs. 5,665.00 but losing a sum of Rs. 16,500.00. In this manner the Government would be a loser of Rs. 12,235 which "would definitely invoke the anti objections and would create further complications" and so the purchase was to be made from the D.C.M. The entire financial implication was discussed in the note of Shri Gupta dated February 12, 1969 (Ex.A.65). In the mean time on February 7, 1969 Shri Prem Sagar agreeing with the office that the remaining

quantity of 500 tonnes should be purchased from the F.C.I. had already written a letter (Ex.A.54) for sanction of Rs. 1,46,000. This letter will indicate that Shri Prem Sagar, like the Director, had also decided at one stage to make the purchase from the F.C.I. and it would be wrong to say that the case of the F.C.I. was always kept in the background or ignored at every stage. The D.C.M. again reiterated their position in their letter dated February 24, 1969 (Ex. A. 18) and affirmed that they would be giving the rebate of Rs. 15 per tonne only in case the entire requirement for the year 1968-69 was exclusively fulfilled from them. Accordingly on March 3, 1969 (Ex.A.66) Shri Prem Sagar recommended the case of the D.C.M. and prepared a case for substituted sanction of Rs. 2,18,520 which were required for 500 tonnes to be purchased from the D.C.M. taking regard to the rebate offered by them. Dr. Jogi naturally asked them to send the proposed sanction letter to the appropriate authority. At that stage the case was referred to the Finance Department and on March 7, 1969 Shri Mithan Lal Jain (C.W. 9) gave his approval, having little regard of all those factors which he has so carefully pointed out in his subsequent note of August 27, 1969 (Ex.A.23), which gave rise to all this controversy. The Finance Minister Thakur Karam Singh approved the proposal on March, 19, 1969. He did not specify a word regarding rate or rebate while according his sanction. On March 28, 1969 the Lieutenant Governor gave his final sanction and on March 29, 1969 Shri P.K. Mattoo, Secretary (Agriculture) signed the sanction letter. The purchase was accordingly made from the D.C.M.

From all this, it is abundantly clear that the case of the F.C.I. was considered on merit. At one stage, on February 3, 1969 and February 7, 1969, both the Director and the Deputy Director had taken a decision in their favour and actually asked for the sanction of Rs. 1,46,000 being the price to be paid to the F.C.I. It was later on that the letter of the D.C.M. (Ex. A. 85) was considered by Shri Prem Lal Gupta (C.W.21) and the rebate position was considered. The financial implication was elaborated in the noting of the Department. The Minister was naturally consulted. The Government was to suffer a clear loss of Rs. 12,235 which they could not afford. This led to the revised decision in favour of the D.C.M. and a fresh sanction of Rs. 2,18,520 was obtained for making the purchase from them.

Shri Prem Sagar (C.W. 13) stated that due to the rebate clause the purchase had to be made from the D.C.M. although they had decided in favour of the F.C.I. Similar is the statement of Dr. B.S. Jogi the Director (C.W. 14). The witness also stated that the Development Minister was again required to be consulted in view of his previous approval in favour of the D.C.M. Dr. Rajeshwar Kumar Gupta of the D.C.M. (C.W. 20) of course reiterated before the Commission that no rebate was to be paid to the Government in case all the purchases for the year 1968-69 were not made from them. Shri Prem Lal Gupta (C.W.21) was, of course, produced to explain his note dated February 12, 1969 (Ex. A. 65). He stated that the letter (Ex.A.84) of the D.C.M. which contained the rebate condition was received by the Development Minister and hence he had advised that the said Minister should be consulted and the rebate condition be clarified to him. The Director asked him "to thrash out the entire case and to put up a detailed note for him". That is why he entered into the financial implication. After calculation of rebate, the Government was to suffer a clear loss of Rs. 12,235. Upon that the case took a turn in favour of

the D.C.M. The main point, according to the witness, for fresh consultation with Pt. Sukh Ram was the previous approval of this Minister for the purchase from the D.C.M. and not from the F.C.I. He was to be asked as to whether he would change his opinion in favour of the F.C.I. despite the financial implication. It could have been assumed without difficulty that the Minister would not have let the Government suffer a loss of Rs. 12,235 and naturally the approval was given in favour of the D.C.M. Shri Gupta considered that it was his duty to have brought to the notice of the authorities the letter dated January 28, 1969 (Ex. A. 85) in which the rebate condition was laid down. Had he not done that, financial complications would have ensured and the Government would have suffered a loss. In the opinion of the Commission, the stand of Shri Gupta was perfectly justified.

Conclusions:

Therefore, the Commission is firm in its opinion on issue No. 2 as follows:-

- (a) the purchase of 1100 tonnes of superphosphate from the D.C.M. in preference to M/s Jaishree Chemicals was justified, the main consideration being the nearness of the factory, sound financial position of the D.C.M. and assurance given by them for keeping up the despatch schedule;
- (b) the sample of the D.C.M. was in no way inferior and complied with the specifications laid down in the Fertilizer Control Order, 1957 As such the purchase made from the D.C.M. was not initially objectionable;
- (c) M/s Jaishree Chemicals were to supply from Calcutta and the distance involved was long and no risk could be endured by the Department in view of the previous experience pertaining to Blue Mountain, Madras;
- (d) the F.C.I. appeared on the scene only in the middle of October, 1968 when the deal was almost finalized in favour of the D.C.M. They did not initially send their sample and it was risky to have accepted their proposal after disregarding the previous decision in favour of the D.C.M. It was not incumbent on the Government to have made the purchases from the F.C.I. They deserved equal treatment along with other firms whose tenders were invited;
- (e) Had the decision been taken in favour of the F.C.I. legal complications were likely to arise because the decision in favour of the D.C.M. could not be set aside;
- (f) the purchase of 500 tonnes of superphosphates was made from the D.C.M. because of the rebate difficulty, and had it been made from the F.C.I. the Government would have suffered a loss of Rs. 12,235 which was not justifiable; and
- (g) The Minister as well as the officers of the Department cannot be held guilty of the "exclusion of other suppliers of fertilizers" and no preference was shown to the D.C.M.

CHAPTER V

RESPONSIBILITY IF CAN BE FIXED UPON ANY PERSON

The Departments concerned were naturally the Agriculture Department and the Finance Department. The persons dealing with the case were the two Ministers, their Secretaries along with other junior officers. In that connection, special reference will be made to the Director of Agriculture Dr. B.S. Jogi, and the Deputy Director (Extension) Shri Prem Sagar.

At the very outset, the Commission will like to emphasise that the discretion of the Ministers and their Secretaries as well as other officers, unless arbitrary or dishonest, cannot be interfered with. If upon strict scrutiny as has been done by the Finance Department at a much later stage some irregularities are found which amount to a mere error of judgment on the part of the Minister or these officers, the Commission will not take notice of any such irregularity. It has all along been considered by the Commission as to whether any dishonest motive could be spelled out, and every step taken in the Department has been scrutinized from that angle. From the facts as they stand, the Commission has no hesitation to infer that no dishonest motive on the part of any one was detected.

Role of Ministers:

At first the Commission will deal with the role of the Ministers. As to the Development Minister Pt. Sukh Ram, he was essentially concerned with the supply of superphosphates to the farmers. In that connection, it is very likely that the farmers must have met him during his tours. It was natural that some complaints were made as the supply of superphosphate was delayed. In such a contingency Pt. Sukh Ram had to make some special efforts to finalize the case of purchases in the Department. According to him, periodical meetings were held. The Minister addressed the officers and emphasized the need of fertilizers.

A few defined steps in that connection were pointed out as taken up by Pt. Sukh Ram and an attempt was made to defile his image. In the opinion of the Commission, however, there is a miserable failure in any such attempt. The earliest note which refers to Pt. Sukh Ram is of May 31, 1968 (Ex. A.20). The Private Secretary to the Development Minister "desired on phone" that the files relating to calling of the tenders for the supply of superphosphates were to be sent to him. In that connection the files were sent to the Ministers. There is a letter received from the D.C.M. (Ex. A. 103) dated June 10, 1968 where in the D.C.M. persuaded the Department to purchase fertilizers from them as they were doing before. At the bottom of this letter, Pt. Sukh Ram wrote on June 15, 1968:

"D. Agr. to please discuss this case with me along with the relevant files.

SUKH RAM,
15-6-1968".

While the files remained with the Minister, he had some discussion with Shri Prem Sagar which is indicated by the note of this officer dated August 9, 1968 (Ex.A.55). While giving his comment on the objection raised by Shri S.P. Jain, Assistant Director, Shri Prem Sagar wrote that the D.C.M. was to be preferred for the reasons stated. He indicated:

"These facts were brought to the notice of the Hon'ble Development Minister, who was also of the same opinion."

Shri Prem Sagar emphasised the nearness of the factory, its sound financial position and the assurance of constant supply of fertilizers. Pt. Sukh Ram naturally accepted the opinion of Shri Prem Sagar. In that circumstance the opinion as expressed by Pt. Sukh Ram was indicated in Ex.A.55. Since no action was taken by the Department on August 19, 1968 (Ex. A. 21), Pt. Sukh Ram again wrote:

"What action has been taken to procure the fertilizers from those whose tenders have been accepted?

SUKH RAM,
19-8-1968".

It appears Pt. Sukh Ram making enquiries about the case right from July 11, 1968. It is so indicated by the letter of his Private Secretary to the Department (Ex.A. 11). This letter was sent on September 19, 1968. Finally the case was put up before the Minister on September 24, 1968 and after discussing with the Director, he approved the purchase. The Minister has also admitted that he had asked for the supply of 22 tonnes for Mandi district.

As to the second purchase of 500 tonnes, there are only three documents which directly refer to the Minister. The D.C.M. wrote to him on January 28, 1969 (Ex. A. 85) in which they emphasised that they would not be giving rebate in case the entire quantity required for the year was not purchased from them. Pt. Sukh Ram must have passed on that information to the Department. Similarly on February 24, 1969 also, a telegram of the D.C.M. was received by the Minister which was conveyed by him to the Department. On March 19, 1969 the Department wrote (Ex.A.17) to the Private Secretary of the Minister that the case was finalised for the purchase of 500 tonnes from the D.C.M. Thereafter the case was sent to Pt. Sukh Ram on March 5, 1969 when his approval was taken.

All this correspondence does not indicate that the Minister was taking any abnormal interest in the matter of purchase. At any rate, *mala fide* or dishonest motive cannot be inferred. If the D.C.M. were writing to the Minister, they were doing so in support of their case which any business man would have done. The Minister was naturally eager to expedite the purchase. Shri P.K. Mattoo, I.A.S., Secretary (C.W.3) stated that 500 tonnes were primarily meant for cultivation of potatoes in Mahasu district. That is why the urgency was there for the purchase. Shri Prem Sagar (C.W.13) gave a similar statement. Dr. Rajeshwar Kumar Gupta (C.W.20) very much stated that the D.C.M. kept on contacting the Government after they submitted their tender. It is the practice of the D.C.M. to contract every authority in furtherance of their interest. Similarly Pt. Sukh Ram was contacted every now and then. Shri Wattan Singh, District Agriculture Officer, Mahasu (C.W.22) stated that the potato sowing season started from second fortnight of March and was to end in April. That is why there was urgent need of 500 tonnes. Thakur Karam Singh (C.W. 23) the Finance Minister gave the following statement:

"It was, of course, the duty of the Development Minister (Pt. Sukh Ram) to see that fertilizers were purchased for distribution in shortest possible time."

With this verdict of Thakur Karam Singh, where was the justification for laying a criticism on the Minister when he brought to the notice of the Department every correspondence of the D.C.M. and wanted to expedite the case for the purchase of fertilizer? Pt. Sukh Ram the Development Minister (C.W. 24) of course stated that he took every step to finalize the purchase and that was done in public interest. When the note of Shri Jain, Assistant Director was shown to him by Shri Prem Sagar he entirely agreed with the Deputy Director because "he had given cogent reasons" and he agreed with those reasons. The Minister further stated that there was a great demand from the farmers and they wanted immediate supply of superphosphates. Accordingly he used to verify the position from the Department officers. He admitted that the representative of the D.C.M. sometimes did come and meet him also in this connection. He sent for the files in the month of May, 1968 and kept them upto August, 1968. The Minister replied that the files did not remain with him for any ulterior motive, but should not be sent back earlier. If the Department needed these files they were at liberty to send for them. As they never asked for the files, the Private Secretary retained them in his record. There was an urgent demand from Mandi and therefore it was he who had suggested that 22 tonnes should promptly be sent to that district. Shri Narayan Singh, Private Secretary to the Minister (C.W. 10) stated that deputations used to meet the Minister regarding the demand of fertilizers. Most of them were food growers and potato growers in the Pradesh. Shri K. S. K Rao (Q.W. 12) stated that he had gone on tour in July 1968 and farmers met him and complained that the fertilizers were not being supplied within time. Shri Prem Sagar (Q.W. 13) stated that he was worried for timely supply of superphosphate. He used to meet the Development Minister quite often in that connection. Actually he requested him to intervene so that the supply was resumed. Dr. B.S. Jogi the Director (C.W. 14) also stated that he got information from the office of the Minister that farmers were approaching him and demanding superphosphates. Pt. Sukh Ram (C.W. 24) stated that there was acute shortage of fertilizers right from 1967. The farmers were approaching him during his tours as they were accustomed to the use of superphosphates. The Minister used to hold quarterly meetings with the heads of the Department. The Kharif season was almost going to be over, and hence quick steps were to be taken for the supply of fertilizers. The Minister did not receive any written complaint from any farmer. Thakur Karam Singh has taken exception to this. I do not think any adverse inference can be drawn if no such written complaint was received by him. There is no reason to disbelieve the Minister as well as other senior officers of his Department when they stated that the farmers were approaching and clamouring for the supply of superphosphate. No written proof was required, except what was noted on the file.

With this evidence on the record, it is not difficult to hold that Pt. Sukh Ram was all along acting in public interest. Neither his motive was dishonest, nor can it be stated that he gained any undue advantage because of this deal with the D.O.M. It cannot even be stated that he exhibited any abnormal behaviour and it appears to the Commission that his activity in regard to this deal of purchase from D.O.M. was in furtherance of his duty as a Minister. Thakur Karam Singh, because of his political rivalry (of which there is in abundance on the record), burnt holes and picked up stray circumstances and thereby jumped to certain generalisations

which were not really deducible from the record. As happens, a fertile brain assumes certain circumstances and infers certain conclusions, all along governed by a sense of suspicion, which in the opinion of the Commission will not lead us anywhere. Pt. Sukh Ram, the Development Minister is a victim of such a situation.

Finance Department:

As to the Finance Department, it was strenuously urged on behalf of the Department of Agriculture that they became wiser only after the two deals were finalized and the case was sent for revised sanction sometimes in August, 1969. At that time Shri Mithan Lal wrote his alarming note of August 27, 1969 (Ex.A.23). He succeeded in pointing out so many circumstances against the two purchases. There can be no explanation why the Finance Department did not point out any of such circumstance at the appropriate time when the purchase of 1100 tonnes or 500 tonnes was sanctioned by them. The role of Finance was certainly not that of a disinterested person. They were very much concerned with the rates at which the material was to be purchased and the rebate, freight etc. relating thereto. The nearness of the factory, the damage to the stuff which was likely to be sustained during transit specially when the example of Blue Mountain, Madras was before them, the soundness of the concern and the continuous flow of supply were factors by all means important for the Finance Department as these were so for the Agriculture Department. When they were in complete accord with the Agriculture Department on all these questions and the two deals were approved by the Lieutenant Governor after their concurrence, where lay the point for reagitating the issue, unless the motive was to be other than public interest? Pt. Sukh Ram (C.W. 24) gave a long narrative in his statement and did not show any hesitation in pointing out that Thakur Karam Singh the Finance Minister was his political rival in Mandi district. He gave a detail of the functioning of the P.W.D. in his constituency in Mandi district. According to the Development Minister, clear discrimination was exhibited so much so that his image was attempted to be tarnished at the instance of Thakur Karam Singh. Pt. Sukh Ram was ill-advised to use the expressions that the Finance Minister was "imbalanced" and even otherwise did not act as a "prudent Finance Minister". In the opinion of the Commission, these expressions could have been avoided by the Development Minister. He is nobody to pass a judgment on the functions of the Finance Minister. The Commission will, therefore, refuse to be a party to this character assassination. It will only utilize this aspect, for the purpose of enquiry, that political rivalry was rampant during the relevant period between Thakur Karam Singh and Pt. Sukh Ram. The other inference of Pt. Sukh Ram that this enquiry was set up at the instance of Thakur Karam Singh does not appear to be sustainable. There is a detailed note written by Dr. Y.S. Parmar, the Chief Minister (Ex. A.96) and in that note he has carefully summarised the case taking assistance from the facts given to him by Thakur Karam Singh in his own note (Ex.A.7). The Chief Minister was naturally conscious of his duties being at the helm of affairs. He had already sent a letter of caution to Pt. Sukh Ram (Ex. A. 113) which dealt with certain irregularities committed by the officers of the Development Department. In the wake of that letter, the audit para No. 15 was written. The Public Accounts Committee (P.A.C.) also took an exception regarding the purchase of superphosphate. There was a debate in the Assembly and even half an hour discussion. Thakur Karam Singh was all along

eager to set right matters. He asked his Deputy Secretary (Finance) Shri Mithan Lal Jain to examine the case with extraordinary thoroughness, which he did. The Finance Minister took the hint from Shri Mithan Lal and himself discussed from every possible angle. In such a situation, the Chief Minister was perfectly justified in taking a serious view of the matter. The result was his note (Ex.A.96) and the subsequent examination by the Chief Secretary Shri K.N. Channa, and his subordinate officers. The Commission had the opportunity of going through all these reports written by the Chief Minister, the Finance Minister, the Chief Secretary, the Secretary and other officers of the Department. The matter had gone to a high pitch and in consequence the decision was taken to set up a commission of enquiry.

Chief Minister:

Repeated efforts were made on behalf of Thakur Karam Singh that the Chief Minister should also be summoned as a witness. In an atmosphere of political animosity between the two Ministers, there was already a danger of tarnishing the image of the Chief Minister. The Commission felt reluctance when permission was accorded to Pt. Sukh Ram to volunteer a statement after he was examined and cross-examined by the learned counsel representing the parties before the Commission. When Pt. Sukh Ram gave a long narrative dealing with his political animosity with Thakur Karam Singh, in all fairness to the then Finance Minister, an opportunity was afforded to cross-examine the Minister. A thorough cross-examination was resorted to, although at much embarrassment to the Commission. Therefore, any attempt in such a situation to bring in the Chief Minister as witness was discouraged. In fact the statement of the Chief Minister was not even required in the interest of the enquiry. That was the sole reason why the request was not acceded to and the Chief Minister was not summoned as a witness.

Shri Anand Swarup (C.W. 1) the then Superintendent in the Finance Department stated that they were not concerned with the stock position. That may be right to say so. At the same time the witness had to admit that the "Finance Department was to go into the questions as to the quantity required, quality of the product and the rates". Only after getting satisfied on these counts, that they sanctioned the case of the Department. Shri Prem Raj Mahajan (C.W. 2) the then Finance Secretary has a similar statement to give. According to him, all relevant facts were considered and only then the concurrence was given. At that stage no clarification was solicited from the administrative Department. Thus there was no occasion to seek any clarification later on. The Finance Secretary stated like this:

"When the case is sent to the Finance Department, we have to examine the case thoroughly in order to ascertain if there is justification for the purchase, whether the price recommended by the administrative Department is acceptable and is economical or not. The Finance Department seeks clarification and if it is not satisfied, we can certainly tell them that they should not purchase that much quantity. As such, the Finance Department could even withhold its concurrence."

The Finance had no dispute regarding the rates and so the concurrence was given. All this will indicate that there was no objection for the deal upto a certain stage. Shri

P.K. Mattoo, I.A.S., Secretary (C.W. 3) stated that every possible information was made available to the Finance Department and it was for them to have agreed with the Department or not. Shri K.N. Channa, I.A.S., the then Chief Secretary (C.W. 4) stated that the Finance Department could have probed into the matter further and they could seek information from the Department which they never did. Shri Mithan Lal, Deputy Secretary (Finance) (C.W. 9) stated that he was asked to examine the case thoroughly and he gave his subsequent note to the Finance Minister. According to him, those facts were not brought to his knowledge before and so the detailed comment was not made. At the same time he admitted that the Finance Department was required to examine the case on merit as to the quantity, price offered, and observance of rules and regulations before the sanction was accorded. When asked as to whether any irregularity was found by the Finance Department at the previous occasion, his reply was that no irregularity was found. With this statement of Shri Mithan Lal, the Commission is at a loss to understand how the wisdom dawned upon him all of a sudden and he started raising all sort of objections which he refrained from doing before. The only inference is that he was motivated by some other consideration then the performance of his duty as Deputy Secretary (Finance). Thakur Karam Singh (C.W. 23) was referred to every pertinent note which the Finance was likely to scrutinize before its approval. He carefully denied that any such note was brought to his notice. He related an incident wherein some of the officers of the Department were talking amongst other each and they were referring to a discount which is given to the Government at the occasion of finalizing a deal regarding purchase of superphosphates. He over heard that talk and that is how he could mention in his first sanction of October 17, 1968 that the Department must have taken regard to the rebate given by the firm. The Commission is at a loss to understand, how such a casual talk over-heard by the Minister in an officers' meeting actually prompted him to mention about the rebate at the time of giving his sanction. Rather the indication is that he must have gone through all the relevant notings on the file before saying anything in regard to the rebate. When the telegram and the letters received from the FCI were available in the file, how and why the Finance Department missed those documents, is a feature of the case which need be noticed. Thakur Karam Singh did not agree with Shri Anand Swarup (C.W. 1) his Superintendent and also with Shri Prem Raj Mahajan his Finance Secretary when they stated that it was the duty of the Finance Department to have elicited all necessary information before the sanction was given. According to Thakur Karam Singh, his Department was "mainly concerned with the budgetary control. Therefore, he is not in entire agreement with the Finance Secretary". Pt. Sukh Ram (C.W. 24), however, stated that it was for the Finance Department not to have concurred with the proposal if anything wrong was pointed out in regard thereto. They had to investigate both as to quality and quantity of the stuff. The Minister stated so because unless the Finance had concurred the amount could not be withdrawn for making the purchase.

In the opinion of the Commission if at all responsibility could be fixed for any irregularity, it could be both upon the Agriculture Department and the Finance Department and they were to explain such an irregularity. However, in the opinion of the Commission no such irregularity could be pointed out and both the purchases were fairly made in public interest.

Role of Officers.

As to the role of officers, specific mention need be made to Shri P. K. Matoo, I.A.S., Secretary; Dr. B.S. Jogi, Director; Shri Prem Sagar, Deputy Director (Extension); and Shri S.P. Jain, Assistant Director. Shri Matoo was the Secretary to the Department of Agriculture at the relevant period of time when the purchase of 500 tonnes was made. According to his statement, the previous deal of 1100 tonnes was finalized with the D.C.M. There was a dispute regarding rebate and in view of the office notings he had to agree and issue the sanction order. This officer has really followed, as he should have done, the office notings. The justification was there and he had naturally to agree in public interest for the purchase of fertilizer from the D.C.M. The Commission has no comment to offer as regards his conduct and the sanction order issued by him must be approved.

As regards Dr. B.S. Jogi the Director, in the opinion of the Commission he deserves a word of praise rather than of condemnation. It was he who pointed out for the first time that the target figure of 22,300 tonnes appeared to be higher and the actual requirement of the Department must be ascertained. Again, it was he who pointed out that the case needed consideration by a high power committee. He was instrumental in setting up the second committee for final decision in favour of the D.C.M. or of the Jaishri Chemicals. Again, it was Dr. Jogi who decided in the first instance that the purchase of 500 tonnes should be made from the F.C.I. and actually issued a letter to Shri Prem Sagar in support of his decision. Therefore, at every stage Dr. Jogi took the necessary precaution and perhaps the Department but for him may not have avoided a serious lapse resulting in loss to the Government. Dr. Jogi was the Joint Secretary land as such could initiate decision even at Government level. Shri S.C. Jain, I.A.S., the then Secretary (C.W. 11) testified to this fact. As such it was not required of Dr. Jogi to have pursued the case through Shri S.C. Jain, I.A.S. Secretary to the Department. Shri Prem Sagar (C.W. 13) very much stated that on August 9, 1968 Dr. Jogi did not agree and adhered to his opinion that the case was to be routed through the high power committee. Dr. B.S. Jogi (C.W. 14) stated that after perusal of the file, in his opinion the purchase of 22,300 tonnes was on the higher side and, therefore, he insisted that the actual demand was to be ascertained.

Shri Prem Sagar the Deputy Director (Extension) agreed in his statement that it was his duty to function as controlling officer of District Agriculture Officers, fixing targets of consumption, arranging the procedural and codal formalities of purchase, placing of indents allocation and distribution amongst the District Agriculture Officers. However, in the opinion of the Commission, being experienced officer of the Department and obviously in direct charge of superphosphates, he acted all throughout in the best interest of the farmers. It was he who felt the pinch of scarcity and must have been approached quite often by the farmers for constant supply. All this prompted him to seek advice from the Director and the Minister. Nothing could be pointed out which may be smear his conduct in relation to the two purchases.

The last officer who needs special mention is Shri S.P. Jain (C.W. 8) whose note dated August 3, 1968 (Notes No. 6 to 9 of Vol.-V) is one of the land marks in the process through which the first deal of 1,100

tonnes had to pass. It was Shri Jain who took exception to the moisture and P2 O5 content and made a comparison of the two samples of the D.C.M. and Jaishri Chemicals. He was out voted by Shri Prem Sagar for his own reasons for which the Commission can make no exception. Nonetheless Shri Jain was performing his duty and he needs appreciation rather than to be condemned for the circumstances he pointed out. It has to be noticed, however, that subsequently when Shri Jain was made a member of the second committee he changed his previous views and accepted the opinion of the majority to conclude that due to certain reasons the sample of the D.C.M. was to be preferred over Jaishri Chemicals. In a hierarchy of officers, when each functions in his own sphere, a little of independent thinking is always appreciated. Such has been the case with Shri Jain and the Commission will refrain from levelling any criticism against him. In fact, he does not deserve any such criticism.

As to the other officers of the Department, they played their role as assigned to them. The Commission has nothing to point out specifically regarding them.

The Commission may then pass on to say a few words about the D.C.M. As pointed out above, they were eager to retain their good will and being businessmen of some standing, they took every precaution to satisfy the misgivings of the Department. With that purpose in view, they were naturally approaching the Minister, the Secretary and also other officers of whom the Director was most important. It is not desirable, and may even be improper, to pass any comment on the conduct of the D.C.M. officers. In the opinion of the Commission, they have been fair and like any other prudent businessman, they also behaved in support of their business deal. In order to resolve a bottleneck in otherwise smooth running of the deal, they had to write to the Minister which they did quite often. Merely because of that, no criticism can be levelled against them. The Commission would rather appreciate their initial stand when they pointed out to the Department that the quantity of 22,300 tonnes superphosphate was due to "ambitious plan" of the Government and perhaps they would not be able to utilize so much fertilizer. In other words, they wanted the Government to reduce their demand which they ultimately did. The Commission has taken notice of this fact and is of the opinion that the D.C.M. has all along been fair in their dealings.

Conclusion:

It is, therefore, concluded that no person was "concerned for irregularities", and in fact the enquiry does not reveal any such irregularity committed by any person. As such there is no question of fixing any responsibility.

General observations:

In the end, a few general observations appear to be necessary. Although no motive or mala fide could be deduced from the conduct of the Minister or their officers yet in the opinion of the Commission, a little more care and caution was required while fixing up the target of 22,300 tonnes for the year 1968-69. Shri K.N. Channa I.A.S., the then Chief Secretary also stated that the target was fixed on a higher side being governed by the "over-enthusiastic" and "over-conscious" behaviour of the Department. There was at any rate a likelihood

of the entire purchase being made and in that contingency many complications would have arisen.

As to the Minister, in the opinion of the Commission a little restraint is always conducive to their public life. In the present case the Development Minister should have avoided direct approach which was perhaps fostered upon him at the instance of the D.C.M. and other concerned. Whenever the Government engages itself in business activity, there is always a lurking danger of its Ministers and Officers to come in contact with private parties. Although justice is done at every level, yet the appearances must be maintained and businessmen, as far as practicable, should be kept at arm's length. So much criticism could have been avoided in the instant case, had this salutary principle been observed.

It is manifest, incorrect figures were supplied for the audit para No. 15. The result was that a wrong statement appeared in the Audit Report leading to so much criticism. The Departmental heads should be asked to be more careful so that correct figures are supplied to the Public Accounts Committee or the Estimate Committee or the Accountant General, least the Department is mis-represented and unnecessary reports are made against them.

While parting with this report, the Commission would like to say a few words by way of appreciation for its staff and also for the assistance received from all others. The Commission is grateful to the two Ministers Thakur

Karam Singh and Pt. Sukh Ram who could spare their valuable time and came to the assistance of the Commission by eliciting facts and explaining circumstances. Similarly the Commission is grateful to Sarvashri K.N. Channa, I.A.S., Chief Secretary, S.C., Jain, I.A.S., P.K. Mattoo, I.A.S. and Prem Raj Mahajan, I.A.S., Secretaries to the Government for their valuable assistance for arriving at a decision. The Commission is also grateful to Dr. B.S. Joshi and Shri Prem Sagar, Deputy Director (Extension) because these two officers could bring to the notice of the Commission nearly every relevant fact for this enquiry. The Commission would also appreciate the assistance received by it from Shri K.S.K. Rao who was careful to explain the technical science relating to superphosphate. Dr. Rajeshwar Kumar Gupta of the D.C.M. came to assist the Commission on behalf of that concern and the Commission appreciates the co-operation received from the D.C.M. enabling this report.

In the last the Commission appreciates the assistance received from its staff, namely, the Secretary Shri T.R. Handa, District and Sessions Judge (now Legal Remembrancer to the H.P. Government), Shri Mohan Singh Thakur, Reader, and Shri T.R. Thakur, Private Secretary on whom had fallen the main burden of sorting out the material and giving shape to the report as presented to the Government.

Sd/-D.B. LAL.

Dated: 1st August, 1974. Commission of Enquiry.
(Fertilizer), H.P.

PART V

In the Court of Senior Sub-Judge, Kangra at Dharamsala

CIVIL SUIT NO. 81 OF 1973

Shri Chunku and others (Plaintiffs) Vs. Bhagtu and others (Defendants).

Versus

Dhanu son of Isra caste Rajput r/o Bassa Mauza Nagrota Surina, Tehsil Dehra, District Kangra (Not heard of for some years.....)

8. Shri Lehri Singh son of Phinoo, Tika Dargiah Dakhli, Bilaspur, Tehsil Dehra, District Kangra.

9. Shrimati Magli Devi d/o Ganga Devi, r/o Tika Bassa Dakhli, Nagrota Surian, Tehsil Dehra, District Kangra. (Defts. 8 and 9 Performa defts).

Whereas the plaintiffs has filed an suit for declaration in this Court on 5-3-1973. In this behalf summons to the above named defendants were issued several times, but they are evading the service knowingly or have concealed themselves. It has been proved to the satisfaction of this court that the above-named defendants cannot be served through ordinary way, hence this proclamation under order 5, rule 20, C.P.C. issued against them that they should appear in this Court on 30-12-1974 personally or through Adv. or an authorised agent, failing which legal proceedings shall be taken against them.

Given under my hand and the seal of the Court on 25-11-1974.

To
The General Public.

Whereas Shri Ram Lubhaya Butani C/o M/s. Himachal Gift Emporium Solan, the petitioner has filed an application in this Court under section 8 of the Hindu Minority and Guardianship Act for permission to sell the share the minor in the house no as Ashiana No. 1 Dhobi Ghat Solan.

A notice hereby given to the general public relative, kinsman, well-wisher to file objection if any to the grant of permission for the selling of the aforesaid property of the minor on or before 23rd December, 1974.

Given under my hand and the seal of the Court this 2nd day of December, 1974.

R. K. MAHAJAN,
Senior Sub-Judge.

Seal.

Seal.

L. R. KHURANA,
Senior Sub-Judge.

PROCLAMATION UNDER SECTION 5, RULE 20 C.P.C

Before Shri Surendra Parkash, M.A.LL.B.
Judge, Small Cause Court, Simla district, Himachal Pradesh

CASE NO. 42/73 OF 1973

In Case—Dharam Pal Khular Owner Chesterton,
Cart Road, Simla Plaintiff.

Versus

Shri N. B. Dass, Superintendent A. G. (P&T), New
Delhi Defendant.

To
Shri N. B. Dass, Superintendent A. G. (P&T), New
Delhi.

Whereas in the above noted case it has been proved to my satisfaction that the above-named defendant Shri N. B. Dass can not be served in the normal mode of service. Hence this proclamation is hereby issued against him and he is directed to appear in this Court on 19-2-75 at 10 A.M. personally or through a pleader or authorised agent, failing which an ex parte proceeding will be taken against him.

Given under my hand and the seal of the Court this 20th the November, 1974.

Seal.

SURENDRA PARKASH,
Judge, Small Cause Court,
Simla.

PROCLAMATION UNDER ORDER 5, RULE 20 C.P.C.

In the Court of Shri R. L. Khurana, Senior Sub-Judge,
Kangra at Dharamsala
CIVIL SUIT No. 353/72

Shri Ashwani Kumar and others: (Plaintiffs). Vs. Shrimati Beasan Devi and an other: (Defts.).

Versus

1. Shrimati Beasan Devi wd/o Chiranji Lal, caste Sood, resident of Paragpur, Tehsil Dehra, District Kangra. Deft. No. 1.

Whereas the plaintiff Shri Ashwani Kumar and another has filed an suit for declaration in this court on 15-11-1972 in this Court. In this behalf summons/notices were issued to defendant No. 1 Shrimati Beasan Devi several times, but she is evading the service intentionally. Now it has been proved to the satisfaction of this Court that Shrimati Beasan Devi can not be served through ordinary way, hence this proclamation under order 5, rule 20 C.P.C. is issued against her that She should appear before this Court on 8-1-1975 at 10.00 A.M. personally or through Advocate or an authorised agent, failing which ex parte proceedings shall be taken against her.

Given under my hand and the seal of the Court on 25/30-11-1974.

R. L. KHURANA,
Senior Sub-Judge.

Seal

न्यायालय श्री आर० एल० खुराना, सीनियर मैन्जर महोदय, कांगड़ा,
स्थान वर्मजाला

उत्तराधिकारी प्रमाण-पत्र प्राप्ति हेतु प्रार्थना-पत्र
मुकदमा नम्बर 4 साल 1974

- वचित्र राम पुत्र दलिपा राम मृतक, जाति विरथ, गांव लुदरेट तहसील देहरा।
- श्रीमती मंगती देवी पुत्री पुत्री दलिपा राम मृतक, पत्नी धनूराम, जाति विरथ, पजबांर, तहसील देहरा।
- श्रीमती प्रसीनी देवी पुत्री दलिपा राम मृतक, पत्नी बन्ता राम, जाति विरथ, राजा का तालाब, तहसील नूसुर।
- श्रीमती शिमली देवी पुत्री दलिपा राम मृतक, पत्नी अमर सिंह, जाति विरथ, कटोरा, तहसील देहरा।
- श्रीमती इश्री देवी विधवा दलिपा राम, जाती विरथ, लुदरेट तहसील देहरा, ज़िला कांगड़ा।

बनाम

संबंधिता

उपर लिखित मुकदमा उनवान वाला में सहिलान उत्तराधिकारी प्रमाण-पत्र प्राप्ति हेतु प्रार्थना पत्र इस न्यायालय में दिया है। अतः इस्तहार द्वारा सर्वे जल्ता को सूचित किया जाता है कि यदि इसके विषय में कोई आपत्ति हो तो तिथि 22-2-1975 को इस न्यायालय से हो कर पेश करे अन्यथा अगामी कार्यवाही की जावेगी।

आज तिथि 4-12-1974 को मेरे हस्ताक्षर व मोहर से जारी हुआ।

मोहर

आर० एल० खुराना,
सीनियर मैन्जर,
वर्मजाला।